

Thursday
September 17, 1998

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NEW YORK CITY

WHEN: September 22, 1998 at 9:00 a.m.
WHERE: National Archives—Northeast Region
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RESERVATIONS: 1-800-688-9889 x 0
 (Federal Information Center)



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Federal Register

Vol. 63, No. 180

Thursday, September 17, 1998

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-12-AD; Amendment 39-10757; AD 98-19-17]

RIN 2120-AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG-400 Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Glaser-Dirks Flugzeugbau GmbH (Glaser-Dirks) Model DG-400 gliders. This AD requires inspecting the powerplant mount and the propeller mount for any loose parts. This AD also requires modifying the starter motor, retrofitting the holder for the starter motor, and checking the engine ignition timing; either immediately or at a certain time depending on the results of the inspection. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent damage to the engine caused by vibration, which could result in loss of engine power during critical phases of flight.

DATES: Effective October 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 30, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from DG Flugzeugbau GmbH, Im Schollengarten 19-20, 7520 Bruchsal 4, Germany; telephone: +49 7257-89-0;

facsimile: +49 7257-8922. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-12-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6934; facsimile: (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Glaser-Dirks Model DG-400 gliders was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 8, 1998 (63 FR 31375). The NPRM proposed to require inspecting the powerplant mount and the propeller mount for loose parts. The NPRM also proposed to require modifying the starter motor, retrofitting the holder for the starter motor, checking the engine ignition timing, and adjusting the timing if necessary; either immediately or at a certain time depending on the results of the inspection. The engine and propeller mount inspection, modifications, and retrofit specified in the NPRM would be accomplished in accordance with DG Flugzeugbau Technical Note (TN) Nr. 826/22, dated January 10, 1990; DG Flugzeugbau Working Instruction No. 1 for TN Nr. 826/22, not dated; DG Flugzeugbau Working Instruction No. 2 for TN Nr. 826/22, not dated; and DG Flugzeugbau Working Instruction No. 3 for TN Nr. 826/22, not dated.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Differences Between the Service Information and This AD

The manufacturer's service information specifies procedures for inspecting the powerplant mount for a secure, tight condition prior to every flight. This service information also specifies inserting revised pages into the maintenance manual. This AD requires neither one of these items.

The FAA does not have justification to require an inspection prior to each flight, and will recommend inserting the revised pages into the AFM through a NOTE in the AD.

Cost Impact

The FAA estimates that 35 gliders in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish this action, and that the average labor rate is approximately \$60 an hour. Parts cost approximately \$150 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$13,650, or \$390 per glider.

Compliance Time of This AD

The compliance time of this AD is in calendar time instead of hours time-in-service (TIS). The average monthly usage of the affected glider ranges throughout the fleet. For example, one owner may operate the glider 25 hours TIS in one week, while another operator may operate the glider 25 hours TIS in one year. In order to assure that all of the owners/operators of the affected glider have inspected the powerplant and propeller mounts for loose parts within a reasonable amount of time, the FAA is utilizing a compliance based on calendar time.

Regulatory Impact

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

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-17 Glaser-Dirks Flugzeugbau GMBH: Amendment 39-10757; Docket No. 98-CE-12-AD.

Applicability: Model DG-400 gliders, serial numbers 4-1 through 4-249, certificated in any category.

Note 1: This AD applies to each glider 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 gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent damage to the engine caused by vibration, which could result in loss of engine power during critical phases of flight, accomplish the following:

(a) Within the next 1 calendar month after the effective date of this AD, inspect the powerplant (engine) mount and propeller mount for any loose parts in accordance with paragraph 1 in the Instructions section of Glaser-Dirks Technical Note (TN) Nr. 826/22, dated January 10, 1990.

(b) Within 3 calendar months after the inspection required in paragraph (a) of this AD or prior to further flight after any part of the powerplant mount or propeller mount is found loose, whichever occurs first, accomplish the following:

(1) Incorporate the modifications, retrofitting, and engine ignition timing procedures, as applicable, in accordance with paragraphs 2 through 4 in the Instructions section of Glaser-Dirks TN Nr. 826/22, dated January 10, 1990.

(2) The engine ignition timing procedures shall be accomplished in accordance with the appropriate Bombardier ROTAX maintenance manual for ROTAX engine type 505, which is referenced in Working Instruction No. 3, Instruction 4 of the Glaser-Dirks TN Nr. 826/22.

(3) After the engine timing is correct, accomplish the actions in paragraph 3 of Working Instruction No. 3, Instruction 4 of the Glaser-Dirks TN Nr. 826/22, dated January 10, 1990. These instructions reference the procedures in Rotax Technical Bulletin No. 505-04, pages 3 through 5, not dated.

Note 2: It is recommended that the manual pages referenced in the Instructions section of Glaser-Dirks TN Nr. 826/22 be inserted into the maintenance manual.

(c) 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 glider to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to DG Flugzeugbau Technical Note Nr. 826/22, dated January 10, 1990, should be directed to DG Flugzeugbau GmbH, P.O. Box

4120, 76625 Bruchsal, Germany; telephone: +49 7257-89-0; facsimile: +49 7257-8922. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The engine and propeller mount inspection, modifications, and retrofit required by this AD shall be done in accordance with DG Flugzeugbau Technical Note Nr. 826/22, dated January 10, 1990; DG Flugzeugbau Working Instruction No. 1 for Technical Note Nr. 826/22, not dated; and DG Flugzeugbau Working Instruction No. 2 to Technical Note Nr. 826/22, not dated. The engine timing procedures required by this AD shall be done in accordance with DG Flugzeugbau Working Instruction No. 3 to Technical Note Nr. 826/22, not dated, and Rotax Technical Service Bulletin No. 505-04, pages 3 through 5, not dated. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from DG Flugzeugbau GmbH, P.O. Box 4120, 76625 Bruchsal, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in German AD 90-43 Glaser-Dirks, dated February 26, 1990.

(g) This amendment becomes effective on October 30, 1998.

Issued in Kansas City, Missouri, on September 3, 1998.

Michael Gallagher,
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24641 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-26-AD; Amendment 39-10764; AD 98-19-23]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires replacement of the existing mounting rack for the Digital Flight Data Recorder (DFDR) with a new rack having improved damping, and installation of a new bracket for re-routing the wiring harness. This amendment is prompted

by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent the possible loss of data recorded on the DFDR as a result of vibrations and/or accelerations during flight.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on March 20, 1998 (63 FR 13576). That action proposed to require replacement of the existing mounting rack for the Digital Flight Data Recorder (DFDR) with a new rack having improved damping, and installation of a new bracket for re-routing the wiring harness.

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

One commenter supports the proposed rule.

One commenter (an operator) proposes an additional method of compliance to the proposed rule that would specify replacement of the DFDR with a Solid State Flight Data Recorder (SSFDR) within 15 months after the effective date of the AD. The operator states that it is in the process of replacing all DFDR's in its fleet with SSFDR's. The operator also includes supporting data that show the current version of the Airbus Illustrated Parts Catalog (IPC) incorrectly refers to the

SSFDR as a DFDR. Since this incorrect reference may be confusing to operators, the commenter proposes the additional method of compliance to the proposal. The commenter points out that the manufacturer recognizes that installation of a SSFDR eliminates the need to accomplish the actions required by the proposed rule.

The FAA does not concur with the commenter's request to revise the method of compliance with the requirements of the AD. However, the FAA concurs with the fact that, if an airplane is equipped with SSFDR's, there is no need to perform the actions required by this AD. Therefore, the FAA has revised the applicability of the AD to reflect only airplanes equipped with LORAL DFDR's having a specific part number. This more definitive applicability will clarify that the requirements of the AD do not encompass those airplanes equipped with SSFDR's.

Conclusion

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

Cost Impact

The FAA estimates that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will be furnished by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$7,920, or \$180 per airplane.

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

Regulatory Impact

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

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-23 Airbus Industrie: Amendment 39-10764. Docket 98-NM-26-AD.

Applicability: Model A320 series airplanes; equipped with a LORAL Digital Flight Data Recorder (DFDR) F800 [part number (P/N) 17M800-251/-261], and on which Airbus Modification 24959 (Airbus Service Bulletin A320-31-1088, Revision 1, dated September 16, 1996) 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the possible loss of data recorded on the DFDR as a result of vibrations and/or accelerations during flight, accomplish the following:

(a) Within 15 months after the effective date of this AD, remove the existing DFDR vibration mounting rack, install a new rack having improved damping, and install a new bracket for re-routing of the cable harness, in accordance with Airbus Service Bulletin A320-31-1088, Revision 2, dated September 16, 1996.

(b) As of the effective date of this AD, no person shall install a DFDR rack having part number 404-050L1DPX2-1 or V2E2433L07F, on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

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

(e) The actions shall be done in accordance with Airbus Service Bulletin A320-31-1088, Revision 2, dated September 16, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 96-272-098(B)R1, dated January 2, 1997.

(f) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24872 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-17-AD; Amendment 39-10763; AD 98-19-22]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A310 and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310 and A300-600 series airplanes, that requires repetitive visual inspections to detect corrosion on the lower rim area of the fuselage rear pressure bulkhead; and follow-on actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct corrosion at the lower rim area of the fuselage rear pressure bulkhead, which could result in reduced structural integrity of the bulkhead, and consequent decompression of the cabin.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A310 and A300-600 series airplanes was published in the **Federal Register** on March 20, 1998 (63 FR

13572). That action proposed to require repetitive visual inspections to detect corrosion on the lower rim area of the fuselage rear pressure bulkhead; and follow-on actions, if necessary.

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

The commenter, Airbus, requests that the applicability of the proposed rule be clarified. The commenter states that the words "in production" were omitted from the translation of the relevant French airworthiness directive. The commenter indicates that the proposed AD should not apply to airplanes on which Airbus Modification 6788 was installed in production of the airplane. The commenter explains that those airplanes have skin panel corrosion protection that airplanes on which the modification described in Airbus Service Bulletin A310-53-2036 or A300-53-6017 do not have. Consequently, the latter airplanes must be inspected repetitively (every five years) for corrosion of the panels.

The FAA concurs with this request for the reasons provided by the commenter. The applicability of this final rule has been revised accordingly.

The manufacturer also notes that Revision 01 of the service bulletins cited in the proposed AD has been issued, and requests that the proposal be revised to reference this latest revision.

The FAA concurs. Since the issuance of the proposal, Airbus issued Service Bulletins A310-53-2092 (for Model A310 series airplanes) and A300-53-6066 (for Model A300-600 series airplanes), both Revision 01, both dated March 11, 1998. Revision 01 of the service bulletins is essentially identical to the original issue; however, Revision 01 includes minor editorial changes. This final rule has been revised to include Revision 01 of these service bulletins as an additional source of service information.

Conclusion

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

Cost Impact

The FAA estimates that 90 Model A310 and A300-600 series airplanes of U.S. registry will be affected by this AD,

that it will take approximately 62 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$334,800, or \$3,720 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-22 Airbus: Amendment 39-10763. Docket 98-NM-17-AD.

Applicability: Model A310 and A300-600 series airplanes on which Airbus Modification 6788 has not been accomplished during production; 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion at the lower rim area of the fuselage rear pressure bulkhead, which could result in reduced structural integrity of the bulkhead, and consequent decompression of the cabin, accomplish the following:

(a) Within 18 months after the effective date of this AD: Except as provided by paragraph (b) of this AD, perform a visual inspection to detect corrosion of the lower rim area of the aft pressure bulkhead, in accordance with Airbus Service Bulletin A310-53-2092 (for Model A310 series airplanes), dated October 16, 1996, or Revision 01, dated March 11, 1998; or Airbus Service Bulletin A300-53-6066 (for Model A300-600 series airplanes), dated October 16, 1996, or Revision 01, dated March 11, 1998; as applicable. If any discrepancy is found, prior to further flight, repair in accordance with the applicable service bulletin. Thereafter, repeat the inspection at the interval specified in paragraph (a)(1) or (a)(2), as applicable.

(1) For airplanes on which Airbus Service Bulletin A310-53-2036 or A300-53-6017 has not been accomplished: Repeat the inspection at intervals not to exceed 3 years.

(2) For airplanes on which Airbus Service Bulletin A310-53-2036 or A300-53-6017 has been accomplished: Repeat the inspection at intervals not to exceed 5 years.

(b) If any discrepancy is found during an inspection required by paragraph (a) of this AD, and the applicable service bulletin specifies to contact Airbus for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators

shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

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

(e) Except as provided by paragraph (b) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A310-53-2092, dated October 16, 1996; Airbus Service Bulletin A310-53-2092, Revision 01, dated March 11, 1998; Airbus Service Bulletin A300-53-6066, dated October 16, 1996; or Airbus Service Bulletin A300-53-6066, Revision 01, dated March 11, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97-061-212(B), dated February 26, 1997.

(f) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24871 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-232-AD; Amendment 39-10765; AD 98-19-24]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 757-200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757-200 series airplanes, that requires modification of certain passenger doors.

This amendment is prompted by reports that certain passenger doors could not be opened due to the escape slide shelf assembly and escape slide falling onto the girt bar lifting mechanism of the door. The actions specified by this AD are intended to prevent the escape slide shelf assembly and escape slide from falling on the girt bar of a passenger door due to failed rivets of the escape slide shelf assembly, and consequent inability to open the passenger door and to use the escape slide at that door during an emergency evacuation of the airplane.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227-2780; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757-200 series airplanes was published in the **Federal Register** on November 13, 1997 (62 FR 60807). That action proposed to require modification of certain passenger doors.

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

Four commenters support the proposed rule.

Request To Extend Compliance Time

Several commenters request an extension to the proposed compliance time; two of the commenters suggest that the compliance time be extended to 24 months. One commenter notes that it has a large fleet of affected airplanes and states that, as the manufacturer did not recommend any compliance time, a longer compliance time would not

compromise safety. Another commenter states that its equivalent "C" check interval is 24 months, and requests that the compliance time be extended accordingly. This commenter's own investigation confirms that this problem has never been found on any of its affected airplanes. Yet another commenter expresses concern that the proposed 18-month compliance time would not allow sufficient time for procurement of parts from its supplier.

The FAA does not concur with these requests to extend the compliance time. In developing an appropriate compliance time for this AD, the FAA considered not only the safety implications, but the manufacturer's recommendations, the availability of required parts, and the practical aspect of accomplishing the modification within an interval of time that parallels normal scheduled maintenance for affected operators. The FAA also considered the fact that Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997 (which is referenced in the proposed AD as one of the appropriate sources of service information for accomplishment of the required actions), has been available to all operators of Boeing Model 757 series airplanes since March 1997. Therefore, the FAA considers that affected operators have had ample time to consider initiating those actions which this AD will require. However, under the provisions of paragraph (c) of the final rule, the FAA may consider requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Request To Shorten Compliance Time

One commenter requests that the compliance time be shortened to six months. This commenter states that, since the proposed modification appears to be simple and would not require any complex parts, the 18-month compliance time seems to be excessive.

The FAA does not concur with the commenter's request to reduce the compliance time. After consideration of all the available information, the FAA cannot conclude that a reduction of the proposed compliance time is warranted. As stated previously, in developing an appropriate compliance time, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modifications. To reduce the compliance time of the proposal would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the period for

public comment, considering additional comments received, and eventually issuing a final rule; the time required for that procedure could take several months. In light of this, and in consideration of the amount of time that has already elapsed since issuance of the original notice, the FAA has determined that further delay of this final rule action is not appropriate. However, if additional data are presented that would justify a shorter compliance time, the FAA may consider further rulemaking on this issue.

Request for Additional Inspections or Tests

One commenter requests that the proposed rule be changed to add a rigorous rigging inspection or, even more desirable, an operational test of the escape slide following completion of the modification. This commenter notes that there have been numerous cases where a repair action to an emergency evacuation device has resulted in a mis-rigging of the device.

The FAA does not concur. The FAA has determined, based on review of the relevant service information, that the instructions in Boeing Service Bulletin 757-25-0175 are clear and easily followed, thus minimizing any chance of mis-rigging. In addition, making this requested change would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the period for public comment, considering additional comments received, and eventually issuing the final rule. As stated above, any further delay in issuing this final rule would be inappropriate.

Request To Revise Number of Affected Airplanes

One commenter, the manufacturer, states that there are only 614 airplanes in the worldwide fleet that would be affected by this rule, instead of the 673 airplanes that were originally estimated. The commenter notes that Model 757-200 freighters should not have been counted in the estimate, as those airplanes do not have number 1, 2, or 4 passenger doors. The FAA concurs, and has revised the worldwide fleet number of affected airplanes in the cost impact information, below.

Request to Reference Revision to Service Bulletin

The manufacturer states that it is releasing a new revision to the referenced service bulletin. The FAA has reviewed and approved Boeing Service Bulletin 757-25-0175, Revision 2, dated January 29, 1998. This revision to the service bulletin eliminates a

condition that might result in a passenger door becoming inoperable. Accordingly, the FAA has revised this final rule to reference Revision 2 of the service bulletin as an appropriate source of service information.

Conclusion

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

Cost Impact

There are approximately 614 Boeing Model 757-200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 381 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$234 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$226,314, or \$594 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy

of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-24 Boeing: Amendment 39-10765. Docket 96-NM-232-AD.

Applicability: Model 757-200 series airplanes, as listed in Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent inability to open the Number 1, 2, or 4 passenger door and to use the escape slide at that door during an emergency evacuation of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, modify the escape slide shelf assemblies of the Numbers 1, 2, and 4 passenger doors in accordance with Boeing Service Bulletin 757-25-0175, dated May 30, 1996; Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997; or Boeing Service Bulletin 757-25-0175, Revision 2, dated January 29, 1998.

(b) As of the effective date of this AD, no person shall install an escape slide shelf assembly having part number 416N2400-6 or 416N2400-7 on any airplane.

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

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

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

(e) The actions shall be done in accordance with Boeing Service Bulletin 757-25-0175, dated May 30, 1996; Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997; or Boeing Service Bulletin 757-25-0175, Revision 2, dated January 29, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24868 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-95-AD; Amendment 39-10766; AD 98-19-25]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 777-200 Series Airplanes Equipped With Air Cruisers Evacuation Slide/Rafts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777-200 series airplanes, that requires modifying the sliding surface of the door 1 left and door 1 right evacuation slide/rafts. This amendment is

prompted by a report of injuries to evacuees using the slide/raft to exit the airplane; the evacuees were unable to achieve adequate initial sliding speed and adequate momentum to carry them expeditiously down the slide/raft. The actions specified by this AD are intended to prevent evacuee overload of the slide/rafts, and consequent impeded evacuation and injury to the evacuees.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW, Renton, Washington; telephone (425) 227-2780; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 777-200 series airplanes was published in the **Federal Register** on September 2, 1997 (62 FR 46221). That action proposed to require modifying the sliding surface of the door 1 left and door 1 right evacuation slide/rafts.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. One commenter supports the proposed AD and two commenters oppose it.

Request That the AD Not Be Issued

The Air Transport Association (ATA) of America states that one operator has already accomplished the modification according to the manufacturer's service bulletin. That operator opposes the proposed rule and states that all 16 of its Model 777 series airplanes have been modified in accordance with the referenced service bulletins (Boeing Service Bulletin 777-25A0035 and Air Cruisers Company Service Bulletin S.B

777-107-25-02), that no other Model 777 operators are affected by these service bulletins, and that the proposed AD will not have a positive impact on safety. For these reasons, the operator does not consider that it is necessary for the FAA to issue the proposed AD.

Another commenter, the manufacturer, states that the proposed AD is not warranted. That commenter advises that it is committed to ensuring the safety of Model 777 series airplanes and has worked aggressively with the affected operators to accomplish the door 1 slide/raft modifications at the earliest possible date. In a letter dated October 15, 1997, the commenter states that 107 slide/rafts out of 113 were modified, only 6 remain unmodified, and none of the unmodified slide/rafts are owned by a U.S. operator. However, in a letter dated October 23, 1997, the commenter states that 104 slide/rafts have been modified and only 9 slide/rafts remain unmodified. Upon inquiry about the correct number of slide/rafts, the FAA was informed by the commenter that the correct numbers were cited in the October 15 letter. That commenter also states that it will continue its efforts to modify the remaining slide/rafts as soon as possible.

The FAA does not concur that issuance of the rule is unnecessary or that it would not have a positive impact on safety, even though the FAA has received information indicating that most of the modifications required by the AD have been accomplished. In accordance with various bilateral airworthiness agreements with countries around the world, the FAA is obligated to advise foreign airworthiness authorities of unsafe conditions identified in products manufactured in the United States. The issuance of AD's is the means by which the FAA satisfies this obligation, and therefore, the issuance of this AD is both warranted and necessary.

Further Evaluation of the Slide/Raft Design Recommended

The Air Line Pilots Association supports the proposed AD. However, this commenter questions whether the proposed solution for applying a dry lubricant to the top of the sliding area has been thoroughly evaluated to ensure that it is usable in all possible conditions that would be encountered during the life of the slide. The commenter also questions how the evacuation problem was discovered, since it was not immediately evident in the evacuation demonstration. In addition, the commenter contends that certain evacuation conditions could

result in unsafe slide performance (e.g., when the slide is wet with rain). The commenter recommends further evaluation of the slide/raft evacuation scenario.

After careful consideration of the questions and recommendations presented by the commenter, the FAA does not concur that additional evaluation is required to correct the identified unsafe condition. During evacuation tests of the slide/raft, evacuees wore clothing of several types of fabric. Testing also included various sliding surface treatments, lubricant applications, evacuee jumping styles, sliding angles (sill height), and wet and dry sliding surface conditions. After careful analysis of these test results, the FAA has determined that further evaluation is not necessary. In addition, the FAA has determined that the application of the dry lubricant, as specified in the AD, is adequate to ensure an appropriate level of safety during an evacuation. The FAA has made no change to the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 43 Boeing Model 777-200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 16 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$3,840, or \$240 per airplane.

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

Regulatory Impact

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

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-25 Boeing: Amendment 39-10766. Docket 97-NM-95-AD.

Applicability: Model 777-200 series airplanes, line positions 2 through 48 inclusive, excluding line positions 10, 41, 43, and 47; equipped with Air Cruisers evacuation slide/rafts, as identified in Air Cruisers Service Bulletin S.B. 777-107-25-02, dated October 29, 1996; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent evacuee overload of the slide/raft, and consequent impeded evacuation and injury to the evacuees, accomplish the following:

(a) Within 180 days after the effective date of this AD, modify the sliding surfaces of the door 1 left and door 1 right evacuation slide/rafts, in accordance with Boeing Alert Service Bulletin 777-25A0035, dated December 2, 1996.

Note 2: The Boeing alert service bulletin references Air Cruisers Company Service Bulletin S.B. 777-107-25-02, dated October 29, 1996, as an additional source of service information.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(c) 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.

(d) The modification shall be done in accordance with Boeing Alert Service Bulletin 777-25A0035, dated December 2, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 98-24867 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-236-AD; Amendment 39-10767; AD 98-20-01]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100) series airplanes. This action requires revising the Airplane Flight Manual (AFM) to provide the flight crew with revised procedures for checking the flap system. This AD also requires revising the maintenance program to provide procedures for checking the flap system, and performing follow-on actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane.

DATES: Effective October 2, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-236-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Information pertaining to this amendment may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Anthony E. Gallo, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; telephone (516) 256-7510; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL-600-2B19 (Regional Jet Series 100) series airplanes. TCA advises that a number of failures of the flap system resulted in a twisted outboard flap panel. These failures of the flap system were attributed to an internal fault within the Number 3 flap actuator (the inboard actuator on the outboard flap). One report indicated that a twisted flap was not detected prior to take-off, and another report indicated that a twisted flap occurred upon deployment of the flaps for landing. However, in both of these cases, the airplane was controllable and landed successfully.

Such an internal fault within the Number 3 actuator, if not corrected, could cause an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane. [An announced failure of the flap system is normally displayed on the engine indicating and crew alert system (EICAS)].

TCA has issued Canadian airworthiness directive (AD) CF-98-14, dated July 6, 1998, in order to assure the continued airworthiness of these airplanes in Canada. That AD describes procedures for amending the Limitations, Normal Procedures, and Abnormal Procedures sections of the Airplane Flight Manual (AFM). That AD also describes maintenance procedures and includes two figures that provide information for the normal/abnormal outboard flap configuration in take-off position, and the outboard flap go/no-go criteria in take-off position.

Other Relevant Proposed Rule

The FAA has previously issued notice of proposed rulemaking (NPRM) Rules Docket 98-NM-134-AD, applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100) series airplanes, which was published in the **Federal Register** on June 8, 1998 (63 FR 31140). That action proposed to require repetitive inspections of the inboard and outboard flap actuators to measure the rotational freedom of the actuator ball screw adjacent to the actuator housing, and replacement of the flap actuators with new or serviceable actuators, if necessary.

FAA's Determination/Interim Action

The FAA has determined that the actions proposed by the NPRM described previously are inadequate to preclude an unannounced failure of

the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane. Therefore, in light of the reports described previously, the FAA has determined that the actions required by this AD are necessary to provide interim action to prevent an unannounced failure of the flap system until final action is identified, at which time the FAA may consider further rulemaking.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane. This AD requires revising the Limitations, Normal, and Abnormal Procedures sections of the FAA-approved AFM to provide the flight crew with revised procedures for checking the flap system. This action also requires revising the maintenance program to provide revised procedures for checking the flap system, and performing follow-on actions, if necessary.

Differences Between This AD and the Canadian Airworthiness Directive

Operators should note the following differences between this AD and the Canadian airworthiness directive:

- This AD further clarifies the personnel who are responsible for certain actions for checking the flap system or performing maintenance.
- A note in the Canadian airworthiness directive specifies that an acceptable procedure for testing of the flap drive breakaway input torque is detailed in Bombardier Service Letter RJ-SL-002A. However, a note in paragraph (b) of this AD specifies that such a procedure is detailed in Aircraft Maintenance Manual Temporary

Revision 27-203, Task 27-53-00-750-802, dated July 17, 1998.

- A requirement has been added to paragraph (a)(3) of this AD to specify that any abnormal flap control event should be recorded in the Aircraft Maintenance Log Book.
- The view that is specified in NOTE 2. of the Appendix (Part 2) of the Canadian airworthiness directive for the outboard flap go/no-go criteria in take-off position has been further clarified in Figure 2 of this AD.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-236-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-20-01 Bombardier, Inc.: Amendment 39-10767. Docket 98-NM-236-AD.

Applicability: Model CL-600-2B19 (Regional Jet Series 100) series airplanes, serial numbers 7003 and subsequent; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane, accomplish the following:

Note 2: Bombardier Service Letter RJ-SL-27-002A, dated April 8, 1998, and Service Letter RJ-SL-27-037, dated July 2, 1998, may provide operators with additional information concerning the actions required by this AD. However, accomplishment of the procedures specified in these service letters should not be considered to be an acceptable method of compliance with the requirements of this AD.

(a) Within 10 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Revise the Limitations Section of the FAA-approved AFM to include the following procedures and Figures 1 and 2 of this AD.

Air Operator Actions

IMPORTANT: If the outboard flap position is outside the "GO" range, as shown in figure 2., further flight is prohibited until required maintenance actions have been accomplished.

1. Touch-and-go landings for the purposes of training must be accomplished using a flap setting of 20 degrees for the entire procedure.

2. (a) Take-off flaps must be set prior to departure, and

(b) An external visual check must be accomplished to detect any twisting, skewing, or abnormal deformation of the flaps, using the information given in Figures 1 and 2.

Note 1: If the outboard flap position is outside the "GO" range as shown in figure 2., further flight is prohibited until required maintenance actions have been accomplished.

Note 2: This visual check must be accomplished either by a member of the flight crew or by maintenance personnel, and the results reported directly to the pilot-in-command prior to take-off.

3. If any additional change to the flap position is necessary, prior to take-off, accomplish the visual check specified by the preceding paragraph 2. (b).

(2) Revise the Normal Procedures Section of the FAA-approved AFM to include the following procedures:

To minimize a possible flap twist in flight when operating flaps, operate the flap selector sequentially, stopping at each setting (i.e., 0 degrees, 8 degrees if applicable, 20 degrees, 30 degrees, 45 degrees; or operate the flap selector in reverse order), and waiting for the flaps to reach each position before selecting the next setting. Monitor the control wheel for abnormal control wheel angles during each transition in flap position.

Note: This procedure is not applicable during a go-around or during any emergency aircraft handling procedure where prompt flap retraction is required. In these cases, follow the applicable AFM procedures.

(3) Revise the Abnormal Procedures Section of the FAA-approved AFM to include the following procedures:

If abnormal aileron control wheel angles develop during flap operation with the autopilot on, or if the aircraft rolls without pilot input with the autopilot off (with or without a 'FLAPS FAIL' caution message), perform the following actions:

1. If flaps are being extended, immediately return the flaps to the previously selected position (e.g., for flaps selected from 8 degrees to 20 degrees, re-select 8 degrees).

2. If flaps are being retracted, the flap selector should remain in the currently selected position (e.g., for flaps selected from 20 degrees to 8 degrees, leave selector at 8 degrees).

3. Do not attempt to operate the flaps any further.

4. If the flaps are engaged, disconnect the autopilot.

Note: When disconnecting the autopilot, anticipate an out-of-trim situation and hold the aileron control wheel in its current position.

5. For landing, perform the "Flaps Failure" procedure for the following conditions:

(a) If an abnormal aileron control wheel angle to the left develops, do not land if a crosswind from the left is greater than 20 knots.

(b) If an abnormal aileron control wheel angle to the right develops, do not land if a crosswind from the right is greater than 20 knots.

6. After landing, do not attempt to retract the flaps. Record the event in the Aircraft Maintenance Log Book and notify the person responsible for maintenance."

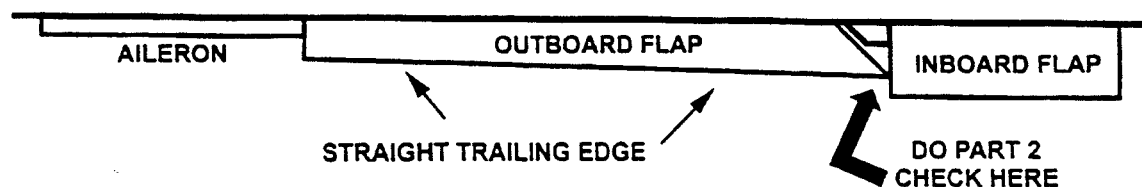
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NORMAL/ABNORMAL OUTBOARD FLAP CONFIGURATION IN TAKE-OFF POSITION

NOTE: View looking forward on left wing trailing edge (right side opposite).

1. NORMAL

A normal outboard flap has a straight trailing edge, and the inboard corner is slightly above (i.e. higher) than the inboard flap.



2. ABNORMAL

The following are indications of an outboard flap with a twist, skew or abnormal deformation:

- Noticeable curve in the trailing edge
- Buckled top or bottom surface
- Higher than normal position of the inboard trailing edge corner

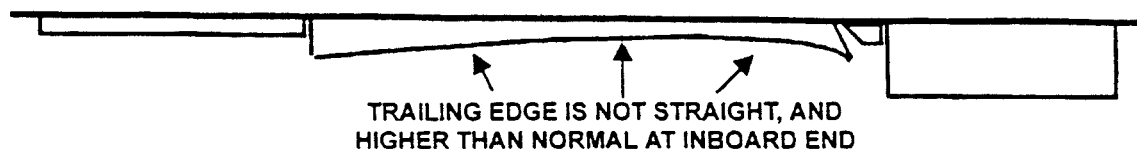


Figure 1. Normal/Abnormal Outboard Flap Configuration in Take-off Position

OUTBOARD FLAP GO/NO-GO CRITERIA IN TAKE-OFF POSITION

- NOTES: 1. These criteria are applicable for any size of hand.
2. View looking forward on left wing trailing edge (right side opposite).

If the outboard flap position is outside the "GO" range as shown below, further flight is prohibited.

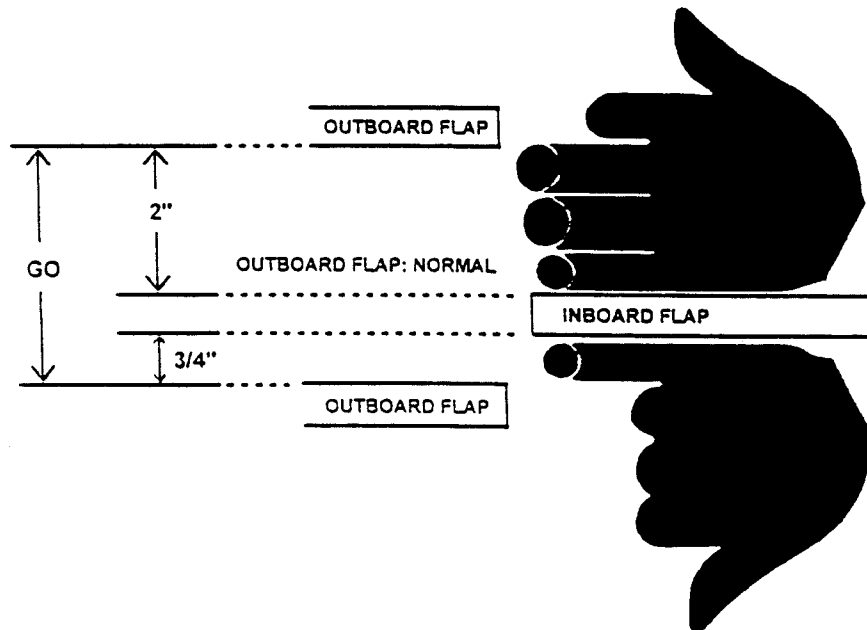
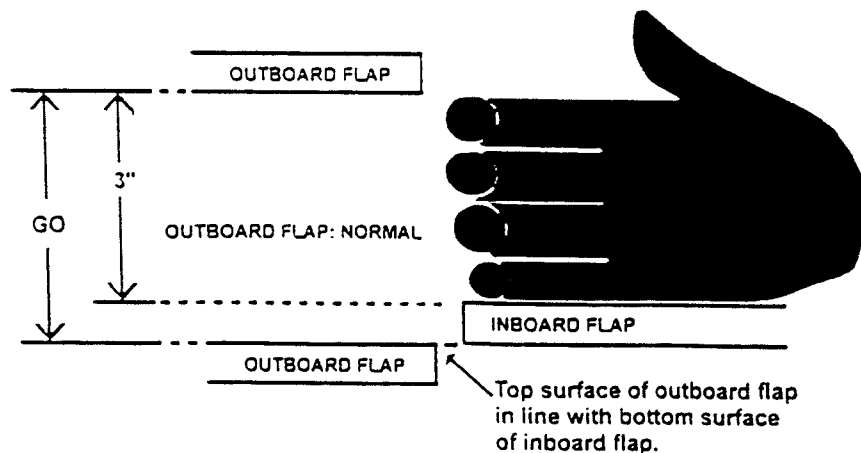
1. FLAPS AT 8 DEGREES**2. FLAPS AT 20 DEGREES**

Figure 2. Outboard Flap Go/No-Go Criteria in Take-off Position

(b) Within 10 days after the effective date of this AD, revise the FAA-approved maintenance program to include the following procedures and Figures 1 and 2 of this AD:

Maintenance Procedure

Whenever a 'FLAPS FAIL' caution message occurs, carry out the following procedures after landing:

Note: These procedures are to be accomplished by maintenance personnel only.

1. Check that there have been no other 'FLAPS FAIL' caution messages reported within the previous 72 hours. If a previous message has been reported, prior to further flight, perform the actions required in the following Maintenance Action section. If no previous 'FLAPS FAIL' caution message has been reported, continue with the following:

2. Carry out an external visual check of each outboard flap for evidence of twisting, skewing, or abnormal deformation. (Reference Figures 1 and 2.)

3. If there is no evidence of twisting, skewing, or abnormal deformation, proceed as follows:

(a) Reset the flap system ONLY ONCE by cycling circuit breakers CB1-F4 and CB2-F4.

(b) If the system does not reset (i.e., the 'FLAPS FAIL' caution message is still posted), prior to further flight, perform the actions required in the following Maintenance Action section.

(c) If the system resets, cycle the flaps to 45 degrees and back to 0 degrees. Continued flap operation for up to a maximum of 72 hours is then permitted as long as no additional 'FLAPS FAIL' caution message is indicated.

(d) If an additional 'FLAPS FAIL' caution message occurs within the period of 72 hours, as specified above, prior to further flight, perform the actions required in the following Maintenance Action section.

(e) Within 72 hours, even if no further 'FLAPS FAIL' messages have been indicated, perform the actions required in the following Maintenance Action section.

4. If there is evidence of twisting, skewing, or abnormal deformation, PRIOR TO FURTHER FLIGHT, perform the actions required in the following Maintenance Action section.

Maintenance Action

Whenever the outboard flap position indicator is outside the "GO" range as shown in Figure 2, or whenever directed to do so by the Maintenance Procedure above, perform the following procedures:

A. Interrogate the flap electronic control unit (FECU) per Fault Isolation Manual, Section 27-50-00, Flaps Fault Isolation, and rectify as applicable.

B. Visually check each flap for evidence of twisting, skewing, or abnormal deformation.

1. If there is no evidence of twisting, skewing, or abnormal deformation, manually isolate any jammed, disconnected, or dragging component; and rectify all discrepant conditions.

2. If there is evidence of twisting, skewing, or abnormal deformation, replace both actuators and any discrepant flap panel with new or serviceable components. In addition,

inspect flexible shaft(s) inboard of the most outboard actuator removed for discrepancies, and replace any discrepant flexible shaft with a new or serviceable flexible shaft.

Note: An acceptable procedure for testing the flap drive breakaway input torque is detailed in Aircraft Maintenance Manual Temporary Revision 27-203, Task 27-53-00-750-802, dated July 17, 1998.

C. Within 3 days after identifying a flap panel twist or logging a 'FLAPS FAIL' caution message, notify Bombardier Aerospace, via the Canadair Regional Jet Action Center, of all findings and actions taken."

(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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector or FAA Principal Operations Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF-98-14, dated July 6, 1998.

(e) This amendment becomes effective on October 2, 1998.

Issued in Renton, Washington, on September 11, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24905 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 303

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

[Docket No. 980716178-8234-02]

RIN 0625-AA53

Limit on Duty-Free Insular Watches in Calendar Year 1999

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of

Insular Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: This action amends the Departments' ITA regulations governing duty-exemption allocations and duty-refund entitlements for watch producers in the United States' insular possessions (the Virgin Islands, Guam, and American Samoa) and the Northern Mariana Islands. The amendments change the value limit for watches eligible for duty-exemption, update the creditable wage ceiling, modify the new entrant invitation language and establish the total quantity and respective territorial shares of insular watches and watch movements which are allowed to enter the United States free of duty during calendar year 1999.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482-3526.

SUPPLEMENTARY INFORMATION: We published proposed regulatory revisions on July 28, 1998 (63 FR 40230) and invited comments. We received no comments.

The insular possessions watch industry provision in Sec. 110 of Pub. L. No. 97-446 (96 Stat. 2331) (1983) as amended by Sec. 602 of Pub. L. No. 103-465 (108 Stat. 4991) (1994) additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Regulations on the establishment of these quantities and shares are contained in Secs. 303.3 and 303.4 of title 15, Code of Federal Regulations (15 CFR 303.3 and 303.4). The Departments establish for calendar year 1999 a total quantity of 3,740,000 units and respective territorial shares as shown in the following table:

Virgin Islands	2,240,000
Guam	500,000
American Samoa	500,000
Northern Mariana Islands	500,000

The rule raises the maximum value of components for duty-free treatment of watches from \$200 to \$500 by amending Sec. 303.14(b)(3). This change increases the value of imported components that may be used in the assembly of duty-free insular watches. The increased value level is intended to provide the

producers with a greater choice in the kinds of watches they assemble, thereby affording them an opportunity to increase shipments and raise territorial employment.

The rule also raises from \$35,000 to \$38,650 the maximum dollar amount of wages creditable in the calculation of the value of the production incentive certificate by amending Sec.

303.14(a)(1)(i). The increase in the maximum creditable wage limit is intended to keep pace with inflation. The ceiling was last raised in 1994.

Finally, the amendment eliminates subparagraphs (1) and (2) of Sec. 303.14(d) and consolidates provisions on new entrant invitations in a revised Sec. 303.14(d). There currently is no producer in Guam, leaving the Virgin Islands as the only territory with an active industry. The change removes the need to amend the regulations when such production shifts occur.

Under the Administrative Procedure Act, 5 U.S.C. 553(d)(1), the effective date of this rule need not be delayed for 30 days because this rule relieves restrictions. The restrictions are relieved by raising the value limit on watches which are allowed into the United States free of duty and raising the creditable wage ceiling used in the calculation of the duty refund.

Regulatory Flexibility Act. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Assistant General Counsel for Legislation and Regulation has certified to the Chief Counsel, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. This is because the rulemaking affects only the five watch companies currently participating in the insular possessions watch program, all of which are located in the Virgin Islands. Although there is a reduction of the 1999 Virgin Islands territorial share of duty-exemption, the reduced amount still represents more than twice the amount of duty-free shipments used in 1997. Accordingly, the reduction for the 1999 annual duty-exemption for the Virgin Islands will not impose any cost or have any economic effect on these small companies.

Similarly, updating the creditable wage ceiling, simplifying and updating the new entrant invitation language, and raising the value limit for watches eligible for duty-exemption will not impose any cost or have any other adverse economic effect on the producers.

Paperwork Reduction Act. This rulemaking involves information collection activities subject to the

Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. which are currently approved by the Office of Management and Budget under control numbers 0625-0040 and 0625-0134. The amendments will not increase the information burden on the public.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

It has been determined that the rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, we are amending 15 CFR Part 303 as follows:

PART 303 [AMENDED]

1. The authority citation for 15 CFR Part 303 continues to read as follows:

Authority: Pub. L. 94-241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 97-446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103-465, 108 Stat. 4991.

§ 303.14 [Amended]

2. Section 303.14(a)(1)(i) is amended by removing “\$35,000” and adding “\$38,650” in its place.

3. Section 303.14(b)(3) is amended by removing “\$200” and adding “\$500” in its place.

4. Section 303.14(d) is revised to read as follows:

§ 303.14 Allocation factors and miscellaneous provisions.

* * * * *

(d) *New entrant invitations.*

Applications from new firms are invited for any unused portion of any territorial share.

* * * * *

5. Section 303.14(e) is amended by removing “2,640,000” and adding “2,240,000” in its place.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration, Department of Commerce.

Allen Stayman,

Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 98-24962 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DS-P; 4310-93-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-226; RM-8893]

Radio Broadcasting Services; Sturgis, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of JoeMyers Productions, Inc., allots Channel 267A at Sturgis, Kentucky, as the community's first local aural transmission service. See 61 FR 20405, November 14, 1996. Channel 267A can be allotted to Sturgis in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 267A at Sturgis are North Latitude 37-32-54 and West Longitude 87-59-06. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 26, 1998. A filing window for Channel 267A at Sturgis, Kentucky, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-226, adopted September 2, 1998, and released September 11, 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 contractors, International Transcription Service, 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 Kentucky, is amended by adding Sturgis, Channel 267A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98-24980 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 285**

[I.D. 091198C]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

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

ACTION: Catch limit adjustment.

SUMMARY: NMFS adjusts the daily catch limit for the Angling category fishery for Atlantic bluefin tuna (BFT) in the northern area (New Jersey and states north). The duration of the catch limit adjustment is limited to September 18 through September 27, 1998, whereupon the northern area daily catch limit will revert to one large school or small medium BFT per vessel. This action is being taken to provide increased fishing opportunities in the northern area without risking overharvest of this category.

DATES: The daily catch limit adjustment is effective 1 a.m., local time, September 18, 1998, until 11:30 p.m., local time, September 27, 1998.

FOR FURTHER INFORMATION CONTACT: Pat Scida, 978-281-9260, or Sarah McLaughlin, 301-713-2347.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA, 16 U.S.C. 971 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Implementing regulations for the Atlantic tuna fisheries at § 285.24 allow for adjustments to the daily catch limits in order to provide for maximum utilization of the quota spread over the longest possible period of time. The Assistant Administrator for Fisheries, NOAA, may increase or reduce the per angler catch limit for any size class BFT or may change the per angler limit to a

per boat limit or a per boat limit to a per angler limit.

NMFS is responsible for implementing the ICCAT recommendation to limit the annual catch of school BFT to 8 percent by weight of the total annual domestic quota, i.e., 1,344 metric tons (mt). In addition, it is NMFS' goal to increase the geographical and temporal distribution of data collection and fishing opportunities for all fishermen in the Angling category.

Between January 1, 1998, and July 15, 1998, NMFS maintained the northern area (north of 38°47' N. lat.) daily catch limit at one school, large school, or small medium BFT per vessel (measuring 27 to less than 73 inches (69 to less than 185 cm)). Effective July 16, 1998, NMFS adjusted the daily catch limit to one large school or small medium BFT (measuring 47 to less than 73 inches (119 to less than 185 cm)) per vessel. NMFS has determined, based on preliminary 1998 northern area catch estimates of landings to date and on the availability of BFT in the northern area, that a catch limit adjustment is warranted to provide the greatest geographic and temporal range of fishing opportunities without risking overharvest.

The daily catch limit for the northern area is adjusted as follows: No more than three school, large school, or small medium BFT (measuring 27 to less than 73 inches (69 to less than 185 cm)) per vessel, of which no more than one may be a school BFT (measuring 27 to less than 47 inches (69 to less than 119 cm)). This daily catch limit adjustment is effective September 18 through September 27, 1998, whereupon the daily catch limit will revert to one large school or small medium BFT (measuring 47 to less than 73 inches (119 to less than 185 cm)).

These catch limits have been selected based on catch rates for the 1998 fishing season. Therefore, NMFS will continue to monitor the Angling category fishery closely through the Automated Catch Reporting System and the Large Pelagic Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that an interim closure or an additional catch limit adjustment is necessary to enhance scientific data collection from the northern area. Closures or subsequent adjustments to the daily catch limit, if any, shall be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 888-USA-TUNA (888-872-8862), 301-713-1279, or 978-281-9305 for updates on quota monitoring and catch limit adjustments.

Anglers aboard Charter/Headboat vessels, when engaged in recreational fishing for school, large school, and small medium BFT, are subject to the same rules as anglers aboard Angling category vessels. All BFT landed under the Angling category quota must be reported within 24 hours of landing to the NMFS Automated Catch Reporting System by phoning 888-USA-TUNA (888-872-8862).

Pursuant to § 285.7, and under the authority of ATCA, NMFS has authorized fisheries biologists from the Massachusetts Division of Marine Fisheries to conduct joint research with NMFS comparing the effects of circle and straight hooks on BFT and Atlantic yellowfin tuna (YFT). A combined total of 200 BFT and/or YFT (averaging 40 lb.) may be collected off the Massachusetts and Rhode Island coasts under this authorization, which is effective June 29 through October 31, 1998. Assuming that all 200 tunas collected are BFT, approximately 3.6 mt would be deducted from the northern area Angling category subquota, specifically from the allocation for school BFT, measuring less than 47 inches (119 cm).

Classification

This action is taken under 50 CFR 285.24(d)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: September 14, 1998.

Bruce C. Morehead,

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

[FR Doc. 98-24917 Filed 9-14-98; 2:29 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 971208297-8054-02; I.D. 091198D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding

the 1998 total allowable catch (TAC) of pollock in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 14, 1998, until December 31, 1998.

FOR FURTHER INFORMATION CONTACT:

Mary Furuness, 907-586-7228.

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

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of pollock in Statistical Area 610 in the GOA as 29,790 metric tons (mt). The directed fishery for

pollock in Statistical Area 610 was closed under § 679.20(d)(1)(iii) on September 2, 1998, (63 FR 47439, September 8, 1998) and reopened on September 9, 1998.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for pollock will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 29,590 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of pollock for Statistical Area 610 in the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 11, 1998.

Gary C. Matlock,

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

[FR Doc. 98-24918 Filed 9-14-98; 2:29 pm]

BILLING CODE 3510-22-F

Rules and Regulations

Federal Register

Vol. 63, No. 180

Thursday, September 17, 1998

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-12-AD; Amendment 39-10757; AD 98-19-17]

RIN 2120-AA64

Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG-400 Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Glaser-Dirks Flugzeugbau GmbH (Glaser-Dirks) Model DG-400 gliders. This AD requires inspecting the powerplant mount and the propeller mount for any loose parts. This AD also requires modifying the starter motor, retrofitting the holder for the starter motor, and checking the engine ignition timing; either immediately or at a certain time depending on the results of the inspection. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent damage to the engine caused by vibration, which could result in loss of engine power during critical phases of flight.

DATES: Effective October 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 30, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from DG Flugzeugbau GmbH, Im Schollengarten 19-20, 7520 Bruchsal 4, Germany; telephone: +49 7257-89-0;

facsimile: +49 7257-8922. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-12-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6934; facsimile: (816) 426-2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Glaser-Dirks Model DG-400 gliders was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 8, 1998 (63 FR 31375). The NPRM proposed to require inspecting the powerplant mount and the propeller mount for loose parts. The NPRM also proposed to require modifying the starter motor, retrofitting the holder for the starter motor, checking the engine ignition timing, and adjusting the timing if necessary; either immediately or at a certain time depending on the results of the inspection. The engine and propeller mount inspection, modifications, and retrofit specified in the NPRM would be accomplished in accordance with DG Flugzeugbau Technical Note (TN) Nr. 826/22, dated January 10, 1990; DG Flugzeugbau Working Instruction No. 1 for TN Nr. 826/22, not dated; DG Flugzeugbau Working Instruction No. 2 for TN Nr. 826/22, not dated; and DG Flugzeugbau Working Instruction No. 3 for TN Nr. 826/22, not dated.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Differences Between the Service Information and This AD

The manufacturer's service information specifies procedures for inspecting the powerplant mount for a secure, tight condition prior to every flight. This service information also specifies inserting revised pages into the maintenance manual. This AD requires neither one of these items.

The FAA does not have justification to require an inspection prior to each flight, and will recommend inserting the revised pages into the AFM through a NOTE in the AD.

Cost Impact

The FAA estimates that 35 gliders in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish this action, and that the average labor rate is approximately \$60 an hour. Parts cost approximately \$150 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$13,650, or \$390 per glider.

Compliance Time of This AD

The compliance time of this AD is in calendar time instead of hours time-in-service (TIS). The average monthly usage of the affected glider ranges throughout the fleet. For example, one owner may operate the glider 25 hours TIS in one week, while another operator may operate the glider 25 hours TIS in one year. In order to assure that all of the owners/operators of the affected glider have inspected the powerplant and propeller mounts for loose parts within a reasonable amount of time, the FAA is utilizing a compliance based on calendar time.

Regulatory Impact

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

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final 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, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-17 Glaser-Dirks Flugzeugbau GMBH: Amendment 39-10757; Docket No. 98-CE-12-AD.

Applicability: Model DG-400 gliders, serial numbers 4-1 through 4-249, certificated in any category.

Note 1: This AD applies to each glider 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 gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent damage to the engine caused by vibration, which could result in loss of engine power during critical phases of flight, accomplish the following:

(a) Within the next 1 calendar month after the effective date of this AD, inspect the powerplant (engine) mount and propeller mount for any loose parts in accordance with paragraph 1 in the Instructions section of Glaser-Dirks Technical Note (TN) Nr. 826/22, dated January 10, 1990.

(b) Within 3 calendar months after the inspection required in paragraph (a) of this AD or prior to further flight after any part of the powerplant mount or propeller mount is found loose, whichever occurs first, accomplish the following:

(1) Incorporate the modifications, retrofitting, and engine ignition timing procedures, as applicable, in accordance with paragraphs 2 through 4 in the Instructions section of Glaser-Dirks TN Nr. 826/22, dated January 10, 1990.

(2) The engine ignition timing procedures shall be accomplished in accordance with the appropriate Bombardier ROTAX maintenance manual for ROTAX engine type 505, which is referenced in Working Instruction No. 3, Instruction 4 of the Glaser-Dirks TN Nr. 826/22.

(3) After the engine timing is correct, accomplish the actions in paragraph 3 of Working Instruction No. 3, Instruction 4 of the Glaser-Dirks TN Nr. 826/22, dated January 10, 1990. These instructions reference the procedures in Rotax Technical Bulletin No. 505-04, pages 3 through 5, not dated.

Note 2: It is recommended that the manual pages referenced in the Instructions section of Glaser-Dirks TN Nr. 826/22 be inserted into the maintenance manual.

(c) 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 glider to a location where the requirements of this AD can be accomplished.

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) Questions or technical information related to DG Flugzeugbau Technical Note Nr. 826/22, dated January 10, 1990, should be directed to DG Flugzeugbau GmbH, P.O. Box

4120, 76625 Bruchsal, Germany; telephone: +49 7257-89-0; facsimile: +49 7257-8922. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(f) The engine and propeller mount inspection, modifications, and retrofit required by this AD shall be done in accordance with DG Flugzeugbau Technical Note Nr. 826/22, dated January 10, 1990; DG Flugzeugbau Working Instruction No. 1 for Technical Note Nr. 826/22, not dated; and DG Flugzeugbau Working Instruction No. 2 to Technical Note Nr. 826/22, not dated. The engine timing procedures required by this AD shall be done in accordance with DG Flugzeugbau Working Instruction No. 3 to Technical Note Nr. 826/22, not dated, and Rotax Technical Service Bulletin No. 505-04, pages 3 through 5, not dated. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from DG Flugzeugbau GmbH, P.O. Box 4120, 76625 Bruchsal, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in German AD 90-43 Glaser-Dirks, dated February 26, 1990.

(g) This amendment becomes effective on October 30, 1998.

Issued in Kansas City, Missouri, on September 3, 1998.

Michael Gallagher,
Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24641 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-26-AD; Amendment 39-10764; AD 98-19-23]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires replacement of the existing mounting rack for the Digital Flight Data Recorder (DFDR) with a new rack having improved damping, and installation of a new bracket for re-routing the wiring harness. This amendment is prompted

by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent the possible loss of data recorded on the DFDR as a result of vibrations and/or accelerations during flight.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on March 20, 1998 (63 FR 13576). That action proposed to require replacement of the existing mounting rack for the Digital Flight Data Recorder (DFDR) with a new rack having improved damping, and installation of a new bracket for re-routing the wiring harness.

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

One commenter supports the proposed rule.

One commenter (an operator) proposes an additional method of compliance to the proposed rule that would specify replacement of the DFDR with a Solid State Flight Data Recorder (SSFDR) within 15 months after the effective date of the AD. The operator states that it is in the process of replacing all DFDR's in its fleet with SSFDR's. The operator also includes supporting data that show the current version of the Airbus Illustrated Parts Catalog (IPC) incorrectly refers to the

SSFDR as a DFDR. Since this incorrect reference may be confusing to operators, the commenter proposes the additional method of compliance to the proposal. The commenter points out that the manufacturer recognizes that installation of a SSFDR eliminates the need to accomplish the actions required by the proposed rule.

The FAA does not concur with the commenter's request to revise the method of compliance with the requirements of the AD. However, the FAA concurs with the fact that, if an airplane is equipped with SSFDR's, there is no need to perform the actions required by this AD. Therefore, the FAA has revised the applicability of the AD to reflect only airplanes equipped with LORAL DFDR's having a specific part number. This more definitive applicability will clarify that the requirements of the AD do not encompass those airplanes equipped with SSFDR's.

Conclusion

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

Cost Impact

The FAA estimates that 44 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will be furnished by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$7,920, or \$180 per airplane.

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

Regulatory Impact

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

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-23 Airbus Industrie: Amendment 39-10764. Docket 98-NM-26-AD.

Applicability: Model A320 series airplanes; equipped with a LORAL Digital Flight Data Recorder (DFDR) F800 [part number (P/N) 17M800-251/-261], and on which Airbus Modification 24959 (Airbus Service Bulletin A320-31-1088, Revision 1, dated September 16, 1996) 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the possible loss of data recorded on the DFDR as a result of vibrations and/or accelerations during flight, accomplish the following:

(a) Within 15 months after the effective date of this AD, remove the existing DFDR vibration mounting rack, install a new rack having improved damping, and install a new bracket for re-routing of the cable harness, in accordance with Airbus Service Bulletin A320-31-1088, Revision 2, dated September 16, 1996.

(b) As of the effective date of this AD, no person shall install a DFDR rack having part number 404-050L1DPX2-1 or V2E2433L07F, on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

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

(e) The actions shall be done in accordance with Airbus Service Bulletin A320-31-1088, Revision 2, dated September 16, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 96-272-098(B)R1, dated January 2, 1997.

(f) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24872 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-17-AD; Amendment 39-10763; AD 98-19-22]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A310 and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310 and A300-600 series airplanes, that requires repetitive visual inspections to detect corrosion on the lower rim area of the fuselage rear pressure bulkhead; and follow-on actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct corrosion at the lower rim area of the fuselage rear pressure bulkhead, which could result in reduced structural integrity of the bulkhead, and consequent decompression of the cabin.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A310 and A300-600 series airplanes was published in the **Federal Register** on March 20, 1998 (63 FR

13572). That action proposed to require repetitive visual inspections to detect corrosion on the lower rim area of the fuselage rear pressure bulkhead; and follow-on actions, if necessary.

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

The commenter, Airbus, requests that the applicability of the proposed rule be clarified. The commenter states that the words "in production" were omitted from the translation of the relevant French airworthiness directive. The commenter indicates that the proposed AD should not apply to airplanes on which Airbus Modification 6788 was installed in production of the airplane. The commenter explains that those airplanes have skin panel corrosion protection that airplanes on which the modification described in Airbus Service Bulletin A310-53-2036 or A300-53-6017 do not have. Consequently, the latter airplanes must be inspected repetitively (every five years) for corrosion of the panels.

The FAA concurs with this request for the reasons provided by the commenter. The applicability of this final rule has been revised accordingly.

The manufacturer also notes that Revision 01 of the service bulletins cited in the proposed AD has been issued, and requests that the proposal be revised to reference this latest revision.

The FAA concurs. Since the issuance of the proposal, Airbus issued Service Bulletins A310-53-2092 (for Model A310 series airplanes) and A300-53-6066 (for Model A300-600 series airplanes), both Revision 01, both dated March 11, 1998. Revision 01 of the service bulletins is essentially identical to the original issue; however, Revision 01 includes minor editorial changes. This final rule has been revised to include Revision 01 of these service bulletins as an additional source of service information.

Conclusion

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

Cost Impact

The FAA estimates that 90 Model A310 and A300-600 series airplanes of U.S. registry will be affected by this AD,

that it will take approximately 62 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$334,800, or \$3,720 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-22 Airbus: Amendment 39-10763. Docket 98-NM-17-AD.

Applicability: Model A310 and A300-600 series airplanes on which Airbus Modification 6788 has not been accomplished during production; 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion at the lower rim area of the fuselage rear pressure bulkhead, which could result in reduced structural integrity of the bulkhead, and consequent decompression of the cabin, accomplish the following:

(a) Within 18 months after the effective date of this AD: Except as provided by paragraph (b) of this AD, perform a visual inspection to detect corrosion of the lower rim area of the aft pressure bulkhead, in accordance with Airbus Service Bulletin A310-53-2092 (for Model A310 series airplanes), dated October 16, 1996, or Revision 01, dated March 11, 1998; or Airbus Service Bulletin A300-53-6066 (for Model A300-600 series airplanes), dated October 16, 1996, or Revision 01, dated March 11, 1998; as applicable. If any discrepancy is found, prior to further flight, repair in accordance with the applicable service bulletin. Thereafter, repeat the inspection at the interval specified in paragraph (a)(1) or (a)(2), as applicable.

(1) For airplanes on which Airbus Service Bulletin A310-53-2036 or A300-53-6017 has not been accomplished: Repeat the inspection at intervals not to exceed 3 years.

(2) For airplanes on which Airbus Service Bulletin A310-53-2036 or A300-53-6017 has been accomplished: Repeat the inspection at intervals not to exceed 5 years.

(b) If any discrepancy is found during an inspection required by paragraph (a) of this AD, and the applicable service bulletin specifies to contact Airbus for appropriate action: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116. Operators

shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

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

(e) Except as provided by paragraph (b) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A310-53-2092, dated October 16, 1996; Airbus Service Bulletin A310-53-2092, Revision 01, dated March 11, 1998; Airbus Service Bulletin A300-53-6066, dated October 16, 1996; or Airbus Service Bulletin A300-53-6066, Revision 01, dated March 11, 1998; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 97-061-212(B), dated February 26, 1997.

(f) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24871 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-232-AD; Amendment 39-10765; AD 98-19-24]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 757-200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757-200 series airplanes, that requires modification of certain passenger doors.

This amendment is prompted by reports that certain passenger doors could not be opened due to the escape slide shelf assembly and escape slide falling onto the girt bar lifting mechanism of the door. The actions specified by this AD are intended to prevent the escape slide shelf assembly and escape slide from falling on the girt bar of a passenger door due to failed rivets of the escape slide shelf assembly, and consequent inability to open the passenger door and to use the escape slide at that door during an emergency evacuation of the airplane.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227-2780; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 757-200 series airplanes was published in the **Federal Register** on November 13, 1997 (62 FR 60807). That action proposed to require modification of certain passenger doors.

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

Four commenters support the proposed rule.

Request To Extend Compliance Time

Several commenters request an extension to the proposed compliance time; two of the commenters suggest that the compliance time be extended to 24 months. One commenter notes that it has a large fleet of affected airplanes and states that, as the manufacturer did not recommend any compliance time, a longer compliance time would not

compromise safety. Another commenter states that its equivalent "C" check interval is 24 months, and requests that the compliance time be extended accordingly. This commenter's own investigation confirms that this problem has never been found on any of its affected airplanes. Yet another commenter expresses concern that the proposed 18-month compliance time would not allow sufficient time for procurement of parts from its supplier.

The FAA does not concur with these requests to extend the compliance time. In developing an appropriate compliance time for this AD, the FAA considered not only the safety implications, but the manufacturer's recommendations, the availability of required parts, and the practical aspect of accomplishing the modification within an interval of time that parallels normal scheduled maintenance for affected operators. The FAA also considered the fact that Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997 (which is referenced in the proposed AD as one of the appropriate sources of service information for accomplishment of the required actions), has been available to all operators of Boeing Model 757 series airplanes since March 1997. Therefore, the FAA considers that affected operators have had ample time to consider initiating those actions which this AD will require. However, under the provisions of paragraph (c) of the final rule, the FAA may consider requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Request To Shorten Compliance Time

One commenter requests that the compliance time be shortened to six months. This commenter states that, since the proposed modification appears to be simple and would not require any complex parts, the 18-month compliance time seems to be excessive.

The FAA does not concur with the commenter's request to reduce the compliance time. After consideration of all the available information, the FAA cannot conclude that a reduction of the proposed compliance time is warranted. As stated previously, in developing an appropriate compliance time, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the modifications. To reduce the compliance time of the proposal would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the period for

public comment, considering additional comments received, and eventually issuing a final rule; the time required for that procedure could take several months. In light of this, and in consideration of the amount of time that has already elapsed since issuance of the original notice, the FAA has determined that further delay of this final rule action is not appropriate. However, if additional data are presented that would justify a shorter compliance time, the FAA may consider further rulemaking on this issue.

Request for Additional Inspections or Tests

One commenter requests that the proposed rule be changed to add a rigorous rigging inspection or, even more desirable, an operational test of the escape slide following completion of the modification. This commenter notes that there have been numerous cases where a repair action to an emergency evacuation device has resulted in a mis-rigging of the device.

The FAA does not concur. The FAA has determined, based on review of the relevant service information, that the instructions in Boeing Service Bulletin 757-25-0175 are clear and easily followed, thus minimizing any chance of mis-rigging. In addition, making this requested change would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the period for public comment, considering additional comments received, and eventually issuing the final rule. As stated above, any further delay in issuing this final rule would be inappropriate.

Request To Revise Number of Affected Airplanes

One commenter, the manufacturer, states that there are only 614 airplanes in the worldwide fleet that would be affected by this rule, instead of the 673 airplanes that were originally estimated. The commenter notes that Model 757-200 freighters should not have been counted in the estimate, as those airplanes do not have number 1, 2, or 4 passenger doors. The FAA concurs, and has revised the worldwide fleet number of affected airplanes in the cost impact information, below.

Request to Reference Revision to Service Bulletin

The manufacturer states that it is releasing a new revision to the referenced service bulletin. The FAA has reviewed and approved Boeing Service Bulletin 757-25-0175, Revision 2, dated January 29, 1998. This revision to the service bulletin eliminates a

condition that might result in a passenger door becoming inoperable. Accordingly, the FAA has revised this final rule to reference Revision 2 of the service bulletin as an appropriate source of service information.

Conclusion

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

Cost Impact

There are approximately 614 Boeing Model 757-200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 381 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$234 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$226,314, or \$594 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy

of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-24 Boeing: Amendment 39-10765. Docket 96-NM-232-AD.

Applicability: Model 757-200 series airplanes, as listed in Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent inability to open the Number 1, 2, or 4 passenger door and to use the escape slide at that door during an emergency evacuation of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, modify the escape slide shelf assemblies of the Numbers 1, 2, and 4 passenger doors in accordance with Boeing Service Bulletin 757-25-0175, dated May 30, 1996; Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997; or Boeing Service Bulletin 757-25-0175, Revision 2, dated January 29, 1998.

(b) As of the effective date of this AD, no person shall install an escape slide shelf assembly having part number 416N2400-6 or 416N2400-7 on any airplane.

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

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

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

(e) The actions shall be done in accordance with Boeing Service Bulletin 757-25-0175, dated May 30, 1996; Boeing Service Bulletin 757-25-0175, Revision 1, dated March 6, 1997; or Boeing Service Bulletin 757-25-0175, Revision 2, dated January 29, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24868 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97-NM-95-AD; Amendment 39-10766; AD 98-19-25]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 777-200 Series Airplanes Equipped With Air Cruisers Evacuation Slide/Rafts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 777-200 series airplanes, that requires modifying the sliding surface of the door 1 left and door 1 right evacuation slide/rafts. This amendment is

prompted by a report of injuries to evacuees using the slide/raft to exit the airplane; the evacuees were unable to achieve adequate initial sliding speed and adequate momentum to carry them expeditiously down the slide/raft. The actions specified by this AD are intended to prevent evacuee overload of the slide/rafts, and consequent impeded evacuation and injury to the evacuees.

DATES: Effective October 22, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 22, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW, Renton, Washington; telephone (425) 227-2780; fax (425) 227-1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 777-200 series airplanes was published in the **Federal Register** on September 2, 1997 (62 FR 46221). That action proposed to require modifying the sliding surface of the door 1 left and door 1 right evacuation slide/rafts.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. One commenter supports the proposed AD and two commenters oppose it.

Request That the AD Not Be Issued

The Air Transport Association (ATA) of America states that one operator has already accomplished the modification according to the manufacturer's service bulletin. That operator opposes the proposed rule and states that all 16 of its Model 777 series airplanes have been modified in accordance with the referenced service bulletins (Boeing Service Bulletin 777-25A0035 and Air Cruisers Company Service Bulletin S.B

777-107-25-02), that no other Model 777 operators are affected by these service bulletins, and that the proposed AD will not have a positive impact on safety. For these reasons, the operator does not consider that it is necessary for the FAA to issue the proposed AD.

Another commenter, the manufacturer, states that the proposed AD is not warranted. That commenter advises that it is committed to ensuring the safety of Model 777 series airplanes and has worked aggressively with the affected operators to accomplish the door 1 slide/raft modifications at the earliest possible date. In a letter dated October 15, 1997, the commenter states that 107 slide/rafts out of 113 were modified, only 6 remain unmodified, and none of the unmodified slide/rafts are owned by a U.S. operator. However, in a letter dated October 23, 1997, the commenter states that 104 slide/rafts have been modified and only 9 slide/rafts remain unmodified. Upon inquiry about the correct number of slide/rafts, the FAA was informed by the commenter that the correct numbers were cited in the October 15 letter. That commenter also states that it will continue its efforts to modify the remaining slide/rafts as soon as possible.

The FAA does not concur that issuance of the rule is unnecessary or that it would not have a positive impact on safety, even though the FAA has received information indicating that most of the modifications required by the AD have been accomplished. In accordance with various bilateral airworthiness agreements with countries around the world, the FAA is obligated to advise foreign airworthiness authorities of unsafe conditions identified in products manufactured in the United States. The issuance of AD's is the means by which the FAA satisfies this obligation, and therefore, the issuance of this AD is both warranted and necessary.

Further Evaluation of the Slide/Raft Design Recommended

The Air Line Pilots Association supports the proposed AD. However, this commenter questions whether the proposed solution for applying a dry lubricant to the top of the sliding area has been thoroughly evaluated to ensure that it is usable in all possible conditions that would be encountered during the life of the slide. The commenter also questions how the evacuation problem was discovered, since it was not immediately evident in the evacuation demonstration. In addition, the commenter contends that certain evacuation conditions could

result in unsafe slide performance (e.g., when the slide is wet with rain). The commenter recommends further evaluation of the slide/raft evacuation scenario.

After careful consideration of the questions and recommendations presented by the commenter, the FAA does not concur that additional evaluation is required to correct the identified unsafe condition. During evacuation tests of the slide/raft, evacuees wore clothing of several types of fabric. Testing also included various sliding surface treatments, lubricant applications, evacuee jumping styles, sliding angles (sill height), and wet and dry sliding surface conditions. After careful analysis of these test results, the FAA has determined that further evaluation is not necessary. In addition, the FAA has determined that the application of the dry lubricant, as specified in the AD, is adequate to ensure an appropriate level of safety during an evacuation. The FAA has made no change to the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 43 Boeing Model 777-200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 16 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$3,840, or \$240 per airplane.

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

Regulatory Impact

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

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-19-25 Boeing: Amendment 39-10766. Docket 97-NM-95-AD.

Applicability: Model 777-200 series airplanes, line positions 2 through 48 inclusive, excluding line positions 10, 41, 43, and 47; equipped with Air Cruisers evacuation slide/rafts, as identified in Air Cruisers Service Bulletin S.B. 777-107-25-02, dated October 29, 1996; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent evacuee overload of the slide/raft, and consequent impeded evacuation and injury to the evacuees, accomplish the following:

(a) Within 180 days after the effective date of this AD, modify the sliding surfaces of the door 1 left and door 1 right evacuation slide/rafts, in accordance with Boeing Alert Service Bulletin 777-25A0035, dated December 2, 1996.

Note 2: The Boeing alert service bulletin references Air Cruisers Company Service Bulletin S.B. 777-107-25-02, dated October 29, 1996, as an additional source of service information.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(c) 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.

(d) The modification shall be done in accordance with Boeing Alert Service Bulletin 777-25A0035, dated December 2, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on October 22, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24867 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-236-AD; Amendment 39-10767; AD 98-20-01]

RIN 2120-AA64

Airworthiness Directives; Bombardier Model CL-600-2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100) series airplanes. This action requires revising the Airplane Flight Manual (AFM) to provide the flight crew with revised procedures for checking the flap system. This AD also requires revising the maintenance program to provide procedures for checking the flap system, and performing follow-on actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane.

DATES: Effective October 2, 1998.

Comments for inclusion in the Rules Docket must be received on or before October 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-236-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Information pertaining to this amendment may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Anthony E. Gallo, Aerospace Engineer, Systems and Flight Test Branch, ANE-172, the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; telephone (516) 256-7510; fax (516) 568-2716.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Bombardier Model CL-600-2B19 (Regional Jet Series 100) series airplanes. TCA advises that a number of failures of the flap system resulted in a twisted outboard flap panel. These failures of the flap system were attributed to an internal fault within the Number 3 flap actuator (the inboard actuator on the outboard flap). One report indicated that a twisted flap was not detected prior to take-off, and another report indicated that a twisted flap occurred upon deployment of the flaps for landing. However, in both of these cases, the airplane was controllable and landed successfully.

Such an internal fault within the Number 3 actuator, if not corrected, could cause an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane. [An announced failure of the flap system is normally displayed on the engine indicating and crew alert system (EICAS)].

TCA has issued Canadian airworthiness directive (AD) CF-98-14, dated July 6, 1998, in order to assure the continued airworthiness of these airplanes in Canada. That AD describes procedures for amending the Limitations, Normal Procedures, and Abnormal Procedures sections of the Airplane Flight Manual (AFM). That AD also describes maintenance procedures and includes two figures that provide information for the normal/abnormal outboard flap configuration in take-off position, and the outboard flap go/no-go criteria in take-off position.

Other Relevant Proposed Rule

The FAA has previously issued notice of proposed rulemaking (NPRM) Rules Docket 98-NM-134-AD, applicable to certain Bombardier Model CL-600-2B19 (Regional Jet Series 100) series airplanes, which was published in the **Federal Register** on June 8, 1998 (63 FR 31140). That action proposed to require repetitive inspections of the inboard and outboard flap actuators to measure the rotational freedom of the actuator ball screw adjacent to the actuator housing, and replacement of the flap actuators with new or serviceable actuators, if necessary.

FAA's Determination/Interim Action

The FAA has determined that the actions proposed by the NPRM described previously are inadequate to preclude an unannounced failure of

the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane. Therefore, in light of the reports described previously, the FAA has determined that the actions required by this AD are necessary to provide interim action to prevent an unannounced failure of the flap system until final action is identified, at which time the FAA may consider further rulemaking.

FAA's Conclusions

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

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane. This AD requires revising the Limitations, Normal, and Abnormal Procedures sections of the FAA-approved AFM to provide the flight crew with revised procedures for checking the flap system. This action also requires revising the maintenance program to provide revised procedures for checking the flap system, and performing follow-on actions, if necessary.

Differences Between This AD and the Canadian Airworthiness Directive

Operators should note the following differences between this AD and the Canadian airworthiness directive:

- This AD further clarifies the personnel who are responsible for certain actions for checking the flap system or performing maintenance.
- A note in the Canadian airworthiness directive specifies that an acceptable procedure for testing of the flap drive breakaway input torque is detailed in Bombardier Service Letter RJ-SL-002A. However, a note in paragraph (b) of this AD specifies that such a procedure is detailed in Aircraft Maintenance Manual Temporary

Revision 27-203, Task 27-53-00-750-802, dated July 17, 1998.

- A requirement has been added to paragraph (a)(3) of this AD to specify that any abnormal flap control event should be recorded in the Aircraft Maintenance Log Book.
- The view that is specified in NOTE 2. of the Appendix (Part 2) of the Canadian airworthiness directive for the outboard flap go/no-go criteria in take-off position has been further clarified in Figure 2 of this AD.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-236-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98-20-01 Bombardier, Inc.: Amendment 39-10767. Docket 98-NM-236-AD.

Applicability: Model CL-600-2B19 (Regional Jet Series 100) series airplanes, serial numbers 7003 and subsequent; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an unannounced failure of the flap system, which could result in a flap asymmetry, and consequent reduced controllability of the airplane, accomplish the following:

Note 2: Bombardier Service Letter RJ-SL-27-002A, dated April 8, 1998, and Service Letter RJ-SL-27-037, dated July 2, 1998, may provide operators with additional information concerning the actions required by this AD. However, accomplishment of the procedures specified in these service letters should not be considered to be an acceptable method of compliance with the requirements of this AD.

(a) Within 10 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Revise the Limitations Section of the FAA-approved AFM to include the following procedures and Figures 1 and 2 of this AD.

Air Operator Actions

IMPORTANT: If the outboard flap position is outside the "GO" range, as shown in figure 2., further flight is prohibited until required maintenance actions have been accomplished.

1. Touch-and-go landings for the purposes of training must be accomplished using a flap setting of 20 degrees for the entire procedure.

2. (a) Take-off flaps must be set prior to departure, and

(b) An external visual check must be accomplished to detect any twisting, skewing, or abnormal deformation of the flaps, using the information given in Figures 1 and 2.

Note 1: If the outboard flap position is outside the "GO" range as shown in figure 2., further flight is prohibited until required maintenance actions have been accomplished.

Note 2: This visual check must be accomplished either by a member of the flight crew or by maintenance personnel, and the results reported directly to the pilot-in-command prior to take-off.

3. If any additional change to the flap position is necessary, prior to take-off, accomplish the visual check specified by the preceding paragraph 2. (b).

(2) Revise the Normal Procedures Section of the FAA-approved AFM to include the following procedures:

To minimize a possible flap twist in flight when operating flaps, operate the flap selector sequentially, stopping at each setting (i.e., 0 degrees, 8 degrees if applicable, 20 degrees, 30 degrees, 45 degrees; or operate the flap selector in reverse order), and waiting for the flaps to reach each position before selecting the next setting. Monitor the control wheel for abnormal control wheel angles during each transition in flap position.

Note: This procedure is not applicable during a go-around or during any emergency aircraft handling procedure where prompt flap retraction is required. In these cases, follow the applicable AFM procedures.

(3) Revise the Abnormal Procedures Section of the FAA-approved AFM to include the following procedures:

If abnormal aileron control wheel angles develop during flap operation with the autopilot on, or if the aircraft rolls without pilot input with the autopilot off (with or without a 'FLAPS FAIL' caution message), perform the following actions:

1. If flaps are being extended, immediately return the flaps to the previously selected position (e.g., for flaps selected from 8 degrees to 20 degrees, re-select 8 degrees).

2. If flaps are being retracted, the flap selector should remain in the currently selected position (e.g., for flaps selected from 20 degrees to 8 degrees, leave selector at 8 degrees).

3. Do not attempt to operate the flaps any further.

4. If the flaps are engaged, disconnect the autopilot.

Note: When disconnecting the autopilot, anticipate an out-of-trim situation and hold the aileron control wheel in its current position.

5. For landing, perform the "Flaps Failure" procedure for the following conditions:

(a) If an abnormal aileron control wheel angle to the left develops, do not land if a crosswind from the left is greater than 20 knots.

(b) If an abnormal aileron control wheel angle to the right develops, do not land if a crosswind from the right is greater than 20 knots.

6. After landing, do not attempt to retract the flaps. Record the event in the Aircraft Maintenance Log Book and notify the person responsible for maintenance."

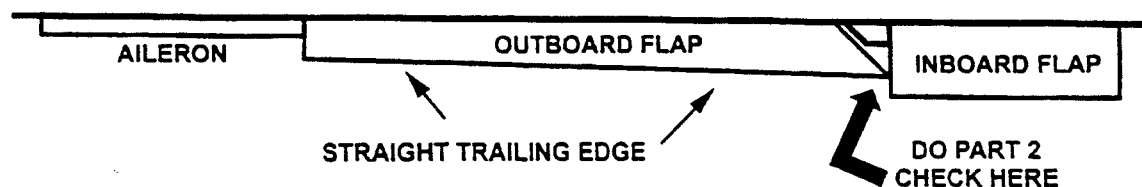
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NORMAL/ABNORMAL OUTBOARD FLAP CONFIGURATION IN TAKE-OFF POSITION

NOTE: View looking forward on left wing trailing edge (right side opposite).

1. NORMAL

A normal outboard flap has a straight trailing edge, and the inboard corner is slightly above (i.e. higher) than the inboard flap.



2. ABNORMAL

The following are indications of an outboard flap with a twist, skew or abnormal deformation:

- Noticeable curve in the trailing edge
- Buckled top or bottom surface
- Higher than normal position of the inboard trailing edge corner

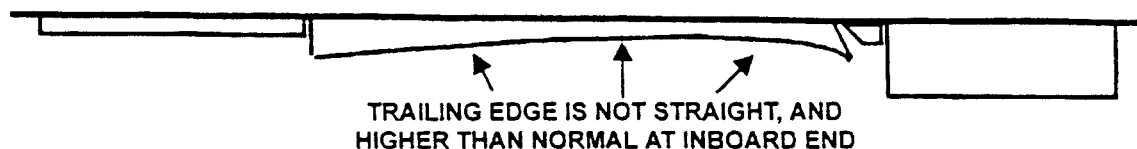


Figure 1. Normal/Abnormal Outboard Flap Configuration in Take-off Position

OUTBOARD FLAP GO/NO-GO CRITERIA IN TAKE-OFF POSITION

- NOTES: 1. These criteria are applicable for any size of hand.
2. View looking forward on left wing trailing edge (right side opposite).

If the outboard flap position is outside the "GO" range as shown below, further flight is prohibited.

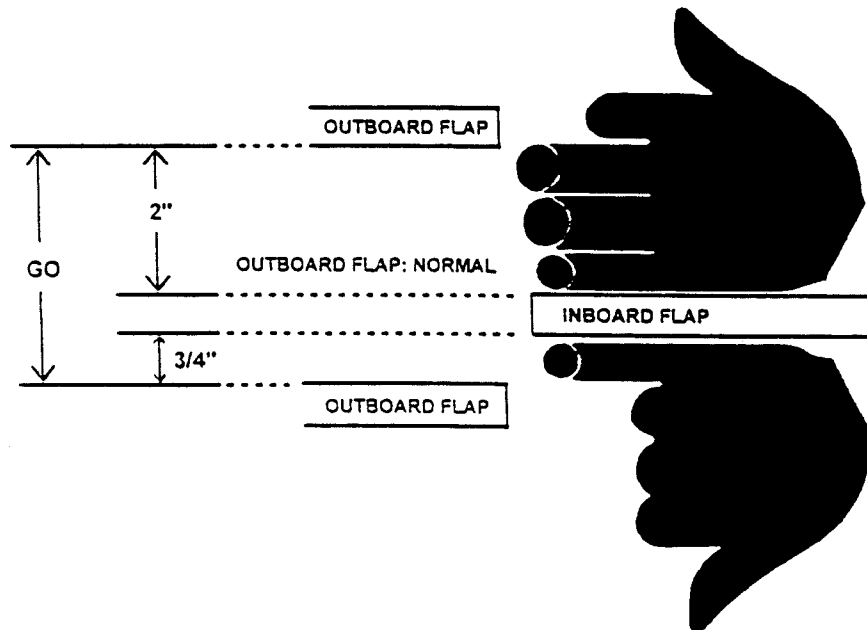
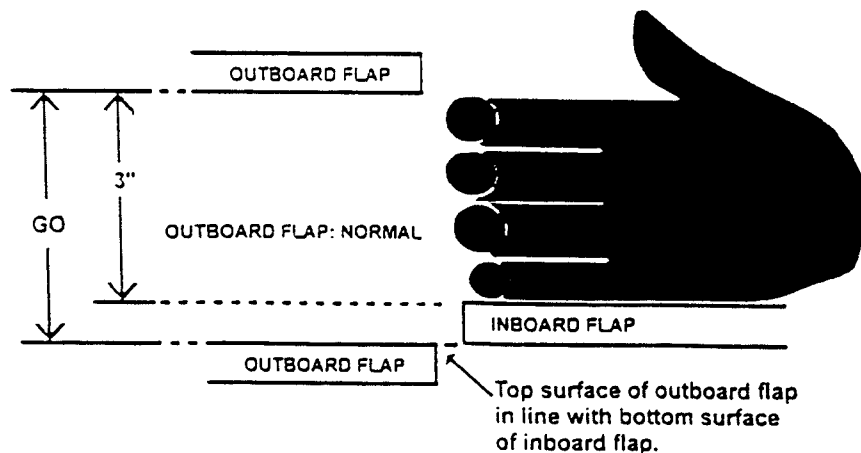
1. FLAPS AT 8 DEGREES**2. FLAPS AT 20 DEGREES**

Figure 2. Outboard Flap Go/No-Go Criteria in Take-off Position

(b) Within 10 days after the effective date of this AD, revise the FAA-approved maintenance program to include the following procedures and Figures 1 and 2 of this AD:

Maintenance Procedure

Whenever a 'FLAPS FAIL' caution message occurs, carry out the following procedures after landing:

Note: These procedures are to be accomplished by maintenance personnel only.

1. Check that there have been no other 'FLAPS FAIL' caution messages reported within the previous 72 hours. If a previous message has been reported, prior to further flight, perform the actions required in the following Maintenance Action section. If no previous 'FLAPS FAIL' caution message has been reported, continue with the following:

2. Carry out an external visual check of each outboard flap for evidence of twisting, skewing, or abnormal deformation. (Reference Figures 1 and 2.)

3. If there is no evidence of twisting, skewing, or abnormal deformation, proceed as follows:

(a) Reset the flap system ONLY ONCE by cycling circuit breakers CB1-F4 and CB2-F4.

(b) If the system does not reset (i.e., the 'FLAPS FAIL' caution message is still posted), prior to further flight, perform the actions required in the following Maintenance Action section.

(c) If the system resets, cycle the flaps to 45 degrees and back to 0 degrees. Continued flap operation for up to a maximum of 72 hours is then permitted as long as no additional 'FLAPS FAIL' caution message is indicated.

(d) If an additional 'FLAPS FAIL' caution message occurs within the period of 72 hours, as specified above, prior to further flight, perform the actions required in the following Maintenance Action section.

(e) Within 72 hours, even if no further 'FLAPS FAIL' messages have been indicated, perform the actions required in the following Maintenance Action section.

4. If there is evidence of twisting, skewing, or abnormal deformation, PRIOR TO FURTHER FLIGHT, perform the actions required in the following Maintenance Action section.

Maintenance Action

Whenever the outboard flap position indicator is outside the "GO" range as shown in Figure 2, or whenever directed to do so by the Maintenance Procedure above, perform the following procedures:

A. Interrogate the flap electronic control unit (FECU) per Fault Isolation Manual, Section 27-50-00, Flaps Fault Isolation, and rectify as applicable.

B. Visually check each flap for evidence of twisting, skewing, or abnormal deformation.

1. If there is no evidence of twisting, skewing, or abnormal deformation, manually isolate any jammed, disconnected, or dragging component; and rectify all discrepant conditions.

2. If there is evidence of twisting, skewing, or abnormal deformation, replace both actuators and any discrepant flap panel with new or serviceable components. In addition,

inspect flexible shaft(s) inboard of the most outboard actuator removed for discrepancies, and replace any discrepant flexible shaft with a new or serviceable flexible shaft.

Note: An acceptable procedure for testing the flap drive breakaway input torque is detailed in Aircraft Maintenance Manual Temporary Revision 27-203, Task 27-53-00-750-802, dated July 17, 1998.

C. Within 3 days after identifying a flap panel twist or logging a 'FLAPS FAIL' caution message, notify Bombardier Aerospace, via the Canadair Regional Jet Action Center, of all findings and actions taken."

(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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector or FAA Principal Operations Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF-98-14, dated July 6, 1998.

(e) This amendment becomes effective on October 2, 1998.

Issued in Renton, Washington, on September 11, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24905 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 303

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

[Docket No. 980716178-8234-02]

RIN 0625-AA53

Limit on Duty-Free Insular Watches in Calendar Year 1999

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of

Insular Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: This action amends the Departments' ITA regulations governing duty-exemption allocations and duty-refund entitlements for watch producers in the United States' insular possessions (the Virgin Islands, Guam, and American Samoa) and the Northern Mariana Islands. The amendments change the value limit for watches eligible for duty-exemption, update the creditable wage ceiling, modify the new entrant invitation language and establish the total quantity and respective territorial shares of insular watches and watch movements which are allowed to enter the United States free of duty during calendar year 1999.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482-3526.

SUPPLEMENTARY INFORMATION: We published proposed regulatory revisions on July 28, 1998 (63 FR 40230) and invited comments. We received no comments.

The insular possessions watch industry provision in Sec. 110 of Pub. L. No. 97-446 (96 Stat. 2331) (1983) as amended by Sec. 602 of Pub. L. No. 103-465 (108 Stat. 4991) (1994) additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Regulations on the establishment of these quantities and shares are contained in Secs. 303.3 and 303.4 of title 15, Code of Federal Regulations (15 CFR 303.3 and 303.4). The Departments establish for calendar year 1999 a total quantity of 3,740,000 units and respective territorial shares as shown in the following table:

Virgin Islands	2,240,000
Guam	500,000
American Samoa	500,000
Northern Mariana Islands	500,000

The rule raises the maximum value of components for duty-free treatment of watches from \$200 to \$500 by amending Sec. 303.14(b)(3). This change increases the value of imported components that may be used in the assembly of duty-free insular watches. The increased value level is intended to provide the

producers with a greater choice in the kinds of watches they assemble, thereby affording them an opportunity to increase shipments and raise territorial employment.

The rule also raises from \$35,000 to \$38,650 the maximum dollar amount of wages creditable in the calculation of the value of the production incentive certificate by amending Sec.

303.14(a)(1)(i). The increase in the maximum creditable wage limit is intended to keep pace with inflation. The ceiling was last raised in 1994.

Finally, the amendment eliminates subparagraphs (1) and (2) of Sec. 303.14(d) and consolidates provisions on new entrant invitations in a revised Sec. 303.14(d). There currently is no producer in Guam, leaving the Virgin Islands as the only territory with an active industry. The change removes the need to amend the regulations when such production shifts occur.

Under the Administrative Procedure Act, 5 U.S.C. 553(d)(1), the effective date of this rule need not be delayed for 30 days because this rule relieves restrictions. The restrictions are relieved by raising the value limit on watches which are allowed into the United States free of duty and raising the creditable wage ceiling used in the calculation of the duty refund.

Regulatory Flexibility Act. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Assistant General Counsel for Legislation and Regulation has certified to the Chief Counsel, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. This is because the rulemaking affects only the five watch companies currently participating in the insular possessions watch program, all of which are located in the Virgin Islands. Although there is a reduction of the 1999 Virgin Islands territorial share of duty-exemption, the reduced amount still represents more than twice the amount of duty-free shipments used in 1997. Accordingly, the reduction for the 1999 annual duty-exemption for the Virgin Islands will not impose any cost or have any economic effect on these small companies.

Similarly, updating the creditable wage ceiling, simplifying and updating the new entrant invitation language, and raising the value limit for watches eligible for duty-exemption will not impose any cost or have any other adverse economic effect on the producers.

Paperwork Reduction Act. This rulemaking involves information collection activities subject to the

Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. which are currently approved by the Office of Management and Budget under control numbers 0625-0040 and 0625-0134. The amendments will not increase the information burden on the public.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

It has been determined that the rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, we are amending 15 CFR Part 303 as follows:

PART 303 [AMENDED]

1. The authority citation for 15 CFR Part 303 continues to read as follows:

Authority: Pub. L. 94-241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 97-446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103-465, 108 Stat. 4991.

§ 303.14 [Amended]

2. Section 303.14(a)(1)(i) is amended by removing “\$35,000” and adding “\$38,650” in its place.

3. Section 303.14(b)(3) is amended by removing “\$200” and adding “\$500” in its place.

4. Section 303.14(d) is revised to read as follows:

§ 303.14 Allocation factors and miscellaneous provisions.

* * * * *

(d) *New entrant invitations.*

Applications from new firms are invited for any unused portion of any territorial share.

* * * * *

5. Section 303.14(e) is amended by removing “2,640,000” and adding “2,240,000” in its place.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration, Department of Commerce.

Allen Stayman,

Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 98-24962 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DS-P; 4310-93-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-226; RM-8893]

Radio Broadcasting Services; Sturgis, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of JoeMyers Productions, Inc., allots Channel 267A at Sturgis, Kentucky, as the community's first local aural transmission service. See 61 FR 20405, November 14, 1996. Channel 267A can be allotted to Sturgis in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 267A at Sturgis are North Latitude 37-32-54 and West Longitude 87-59-06. With this action, this proceeding is terminated.

EFFECTIVE DATE: October 26, 1998. A filing window for Channel 267A at Sturgis, Kentucky, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-226, adopted September 2, 1998, and released September 11, 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 contractors, International Transcription Service, 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 Kentucky, is amended by adding Sturgis, Channel 267A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98-24980 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 285**

[I.D. 091198C]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

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

ACTION: Catch limit adjustment.

SUMMARY: NMFS adjusts the daily catch limit for the Angling category fishery for Atlantic bluefin tuna (BFT) in the northern area (New Jersey and states north). The duration of the catch limit adjustment is limited to September 18 through September 27, 1998, whereupon the northern area daily catch limit will revert to one large school or small medium BFT per vessel. This action is being taken to provide increased fishing opportunities in the northern area without risking overharvest of this category.

DATES: The daily catch limit adjustment is effective 1 a.m., local time, September 18, 1998, until 11:30 p.m., local time, September 27, 1998.

FOR FURTHER INFORMATION CONTACT: Pat Scida, 978-281-9260, or Sarah McLaughlin, 301-713-2347.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA, 16 U.S.C. 971 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Implementing regulations for the Atlantic tuna fisheries at § 285.24 allow for adjustments to the daily catch limits in order to provide for maximum utilization of the quota spread over the longest possible period of time. The Assistant Administrator for Fisheries, NOAA, may increase or reduce the per angler catch limit for any size class BFT or may change the per angler limit to a

per boat limit or a per boat limit to a per angler limit.

NMFS is responsible for implementing the ICCAT recommendation to limit the annual catch of school BFT to 8 percent by weight of the total annual domestic quota, i.e., 1,344 metric tons (mt). In addition, it is NMFS' goal to increase the geographical and temporal distribution of data collection and fishing opportunities for all fishermen in the Angling category.

Between January 1, 1998, and July 15, 1998, NMFS maintained the northern area (north of 38°47' N. lat.) daily catch limit at one school, large school, or small medium BFT per vessel (measuring 27 to less than 73 inches (69 to less than 185 cm)). Effective July 16, 1998, NMFS adjusted the daily catch limit to one large school or small medium BFT (measuring 47 to less than 73 inches (119 to less than 185 cm)) per vessel. NMFS has determined, based on preliminary 1998 northern area catch estimates of landings to date and on the availability of BFT in the northern area, that a catch limit adjustment is warranted to provide the greatest geographic and temporal range of fishing opportunities without risking overharvest.

The daily catch limit for the northern area is adjusted as follows: No more than three school, large school, or small medium BFT (measuring 27 to less than 73 inches (69 to less than 185 cm)) per vessel, of which no more than one may be a school BFT (measuring 27 to less than 47 inches (69 to less than 119 cm)). This daily catch limit adjustment is effective September 18 through September 27, 1998, whereupon the daily catch limit will revert to one large school or small medium BFT (measuring 47 to less than 73 inches (119 to less than 185 cm)).

These catch limits have been selected based on catch rates for the 1998 fishing season. Therefore, NMFS will continue to monitor the Angling category fishery closely through the Automated Catch Reporting System and the Large Pelagic Survey. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that an interim closure or an additional catch limit adjustment is necessary to enhance scientific data collection from the northern area. Closures or subsequent adjustments to the daily catch limit, if any, shall be announced through publication in the **Federal Register**. In addition, anglers may call the Atlantic Tunas Information Line at 888-USA-TUNA (888-872-8862), 301-713-1279, or 978-281-9305 for updates on quota monitoring and catch limit adjustments.

Anglers aboard Charter/Headboat vessels, when engaged in recreational fishing for school, large school, and small medium BFT, are subject to the same rules as anglers aboard Angling category vessels. All BFT landed under the Angling category quota must be reported within 24 hours of landing to the NMFS Automated Catch Reporting System by phoning 888-USA-TUNA (888-872-8862).

Pursuant to § 285.7, and under the authority of ATCA, NMFS has authorized fisheries biologists from the Massachusetts Division of Marine Fisheries to conduct joint research with NMFS comparing the effects of circle and straight hooks on BFT and Atlantic yellowfin tuna (YFT). A combined total of 200 BFT and/or YFT (averaging 40 lb.) may be collected off the Massachusetts and Rhode Island coasts under this authorization, which is effective June 29 through October 31, 1998. Assuming that all 200 tunas collected are BFT, approximately 3.6 mt would be deducted from the northern area Angling category subquota, specifically from the allocation for school BFT, measuring less than 47 inches (119 cm).

Classification

This action is taken under 50 CFR 285.24(d)(3) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: September 14, 1998.

Bruce C. Morehead,

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

[FR Doc. 98-24917 Filed 9-14-98; 2:29 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 971208297-8054-02; I.D. 091198D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding

the 1998 total allowable catch (TAC) of pollock in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 14, 1998, until December 31, 1998.

FOR FURTHER INFORMATION CONTACT:

Mary Furuness, 907-586-7228.

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

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 TAC of pollock in Statistical Area 610 in the GOA as 29,790 metric tons (mt). The directed fishery for

pollock in Statistical Area 610 was closed under § 679.20(d)(1)(iii) on September 2, 1998, (63 FR 47439, September 8, 1998) and reopened on September 9, 1998.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1998 TAC for pollock will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 29,590 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1998 TAC of pollock for Statistical Area 610 in the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 11, 1998.

Gary C. Matlock,

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

[FR Doc. 98-24918 Filed 9-14-98; 2:29 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 63, No. 180

Thursday, September 17, 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

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98-060-1]

Brucellosis; Procedures for Retaining Class Free State Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the brucellosis regulations to allow a State to retain its Class Free status following the detection of an affected herd if the State meets certain conditions. These conditions, which would include quarantining, testing, and depopulating the affected herd and conducting an investigation to ensure that brucellosis has not spread from the affected herd, would allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State. We believe that providing this option to States would encourage the prompt resolution of isolated cases of brucellosis and thus ensure the continued progress of State and Federal efforts toward the eradication of brucellosis in domestic cattle and bison herds. Without this proposed change in the regulations, a State could lose its Class Free status following the detection of a single affected herd and would not have as great an incentive to take swift and decisive action to determine the source of the infection, eliminate the affected herd, and ensure that the disease had not spread to other herds in the State.

DATES: Consideration will be given only to comments received on or before November 2, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98-060-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Please state that your comments refer to Docket No. 98-060-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7708.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*. In its principal animal hosts, brucellosis is characterized by abortion and impaired fertility.

Through a cooperative State and Federal effort, the United States is now approaching total eradication of the field strain *Brucella abortus* in domestic cattle and bison herds. As of July 31, 1998, there were only 9 known infected domestic cattle and bison herds, and the U.S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service (APHIS) had declared 43 States, Puerto Rico, and the U.S. Virgin Islands free of the disease.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States (areas) according to the rate of *Brucella abortus* infection present and the general effectiveness of the brucellosis control and eradication program conducted in the State or area. The classifications are Class Free, Class A, Class B, and Class C; States or areas that do not meet the minimum standards for Class C may be placed under Federal quarantine. At this point in the cooperative State/Federal brucellosis eradication program, all States have achieved either Class Free or Class A status.

To maintain Class Free status, the regulations require, among other things, that a State must have a herd infection rate of 0.0 percent or 0 herds per 1,000. A State's herd infection rate is based on the number of herds found to have

brucellosis reactors within the State during any 12 consecutive months due to field strain *Brucella abortus*. The required 0.0 percent herd infection rate means that a Class Free State would no longer qualify for Class Free status if a single brucellosis-affected herd was detected in the State. A downgrade in status from Class Free to Class A results in increased costs for States and their livestock owners, with most of those added costs arising from the increased testing requirements that accompany Class A status.

The cooperative State/Federal brucellosis eradication program is nearing its conclusion, with eradication of the disease in domestic cattle and bison herds being projected by the end of 1998. With the eradication program entering its latter stages, several States that historically had significant levels of brucellosis have been able to attain Class Free status. Although these States have successfully eliminated the remaining known infected herds within their borders, we believe that it is possible that some of these States may find an isolated herd affected with brucellosis. That was the case recently with Louisiana. Louisiana attained Class Free status in October 1996, but, due to the detection of brucellosis in two herds within the State, was downgraded to Class A in an interim rule effective on June 16, 1998, and published in the **Federal Register** on June 24, 1998 (63 FR 34264-34266, Docket No. 98-068-1).

State and Federal animal health officials have recognized the need for a procedure that would allow a brucellosis Class Free State to maintain its status if an isolated case of brucellosis infection occurs and it can be confirmed that the disease did not spread outside of the herd. We agree that such a strategy is appropriate at this stage of the brucellosis eradication program, when each new herd found to be affected with brucellosis is handled in an emergency action mode in order to quickly resolve the case and ensure continued progress toward eradication. We believe that a procedure that gives a Class Free State the opportunity to retain its status following the detection of an affected herd would be a powerful incentive that would encourage a State in that situation to take swift and decisive action to determine the source of the infection, eliminate the affected

herd, and ensure that the disease has not spread to other herds in the State.

Therefore, we are proposing to amend the definition of *Class Free State or area* in § 78.1 of the regulations by adding a new paragraph (b)(4) that would explain the conditions that a State would have to meet in order to retain its Class Free status after the detection of an affected herd within the State.

This proposed procedure is intended to address cases in which a Class Free State encounters an isolated incident in which a herd affected with brucellosis is discovered; it is not intended to be a regular feature of a State's maintenance of its Class Free status. Therefore, the introductory text of new paragraph (b)(4) would provide that a State could use the procedure only in cases where a single herd is found to be affected with brucellosis, and only once in any 2-year period. We would impose these limitations because we believe that the detection of more than one affected herd within a 2-year period is indicative of a brucellosis problem that is more widespread than the isolated cases this proposed procedure is intended to address.

The steps that a State would have to take to retain its Class Free status would be clear-cut and consistent with the goals of emergency disease management: Within 60 days of identifying the initial infected animal, the State would have to eliminate the affected herd and ensure that infection has not spread. To attain these goals, we would require that the State immediately quarantine the affected herd upon its disclosure. After quarantining the herd to ensure that there is no potential for further spread of the disease from the herd, all the animals in the herd would have to be tested for brucellosis and slaughtered as soon as possible within the 60-day period. Testing the herd prior to, or at the time of, depopulation would provide epidemiologists with information as to the extent of the brucellosis infection in the herd and other information of that nature that would be useful as animal health personnel pursue the other aspect of the State's response to the detection of the affected herd, i.e., a complete epidemiological investigation of the herd to attempt to determine the source of the infection and ensure that brucellosis has not spread.

The epidemiological investigation that would be required would involve the identification and investigation of all herds on premises adjacent to the affected herd (adjacent herds), all herds from which animals may have been brought into the affected herd (source

herds), and all herds that may have had contact with or accepted animals from the affected herd (contact herds). Once all adjacent, source, and contact herds had been identified, each of those herds would have to be placed under an approved individual herd plan.

An approved individual herd plan, as defined in 78.1, is a herd management and testing plan designed by the herd owner, the owner's veterinarian if requested, and a State representative or APHIS representative to determine the disease status of the animals in the herd and, in those cases where the disease is found to be present, to control and eradicate brucellosis within the herd. An individual herd plan must be jointly approved by the State animal health official and the APHIS Veterinarian in Charge. The use of an approved individual herd plan under the circumstances envisioned in this proposed rule would ensure that any testing or other measures determined to be necessary could be instituted after being agreed upon by the herd owner, the State, and APHIS.

In most cases, the approved individual herd plan will require herd blood tests—i.e., the brucellosis testing of all test-eligible animals in a herd—for each of the adjacent, source, and contact herds identified in the course of the epidemiological investigation. However, we acknowledge that there may be some instances in which a herd blood test may not be necessary given the facts of the situation. For example, a herd may be identified as a contact herd on the basis of its having received animals from the affected herd. If, however, it was determined that the only animals the contact herd received from the affected herd were steers, which pose no threat of disseminating brucellosis, then it would serve little practical purpose from an epidemiological standpoint to require a herd blood test for the contact herd. Another example of this type of situation would be a case in which a herd is identified as a source herd on the basis of its having provided a heifer to the affected herd. If it was determined that the heifer left the source herd 8 years ago to join the affected herd, and the source herd has been a certified brucellosis-free herd for the last 10 years, then once again it would likely be unnecessary from an epidemiological standpoint to require that source herd to undergo a herd blood test.

Given that situations such as those described in the previous paragraph may occur, we are proposing to allow the epidemiologist investigating the affected herd to place an adjacent, source, or contact herd under an individual herd plan that does not

require a herd blood test if he or she determines that such testing is not warranted. That determination, along with the reasons supporting it, would have to be documented in the individual herd plan, which, as noted above, must be jointly approved by the State animal health official and the APHIS Veterinarian in Charge.

If additional herds affected with brucellosis were detected during the course of the epidemiological investigation and subsequent testing, the State would not be eligible to retain its Class Free status under this proposed procedure, but the identification of those herds would nonetheless aid the State in its efforts to eliminate brucellosis and begin the process of requalifying for Class Free status.

At the close of the 60-day period during which the State conducted the activities described in the preceding paragraphs, APHIS would review the actions taken by the State in response to the detection of the affected herd to confirm that the State had met all the conditions necessary to retain its Class Free status.

Alternatives Considered

The criteria for retaining Class Free status proposed in this document are similar in scope and substance to the requirements found in the definition of *accredited-free (suspended) State* in § 77.1 of our tuberculosis regulations in 9 CFR part 77. Specifically, an accredited free (suspended) State may regain its accredited-free status after quarantining the herd in which tuberculosis was detected, conducting an epidemiological investigation to determine that the infection has not spread from the herd, and destroying all reactor cattle and bison. The similarity of our proposed criteria for retaining Class Free status to those requirements led us to consider the possibility of establishing a new classification such as "Class Free (suspended) State" in the brucellosis regulations. However, for the reasons explained below, we have determined that an entirely new State classification would not be necessary in order for the objectives of this proposed rule to be accomplished.

Under the tuberculosis regulations, two herds must be found to be affected with tuberculosis within a 48-month period before a State's accredited-free status will be revoked. Without the accredited-free (suspended) classification, the detection of a single tuberculosis-affected herd in a State would have little effect other than to start the 48-month clock; there would not necessarily be an incentive for a State to act quickly to quarantine the

affected herd and ensure that tuberculosis has not and will not spread from that herd. The accredited-free (suspended) classification provides that incentive by allowing a State to qualify for redesignation as accredited-free as soon as the required quarantine, investigation, and destruction of reactors has been completed.

The brucellosis regulations, on the other hand, provide that a State may lose its Class Free status at any time upon the detection of a single brucellosis-affected cattle or bison herd. Given that immediacy, there is no need to provide for an interim downgrading of State status in order for a Class Free State to have an incentive for reacting quickly to the detection of brucellosis within its borders; any necessary incentive for quick action would be provided by this proposed rule's provisions for retaining Class Free status.

Another consideration in our rejection of the "Class Free (suspended)" alternative is the fact that the requirements of this proposed rule would have to be satisfied within 60 days in order for a State to retain its Class Free status. That necessarily brief window for action means that any rulemaking giving notice of a suspension in status would have to be followed in short order by another rulemaking returning the State to Class Free status or lowering it to Class A status. Given that this proposed rule would not place any additional requirements on the State's herds in general, we believe that adding a "suspended" classification would have little effect other than to cause a short-term shuffling of State status.

One benefit of adding a "suspended" classification would be that it would serve as a mechanism to notify other States of the detection of a brucellosis-affected herd in a Class Free State. However, that notification can also be accomplished through normal reporting methods, so we see no need to add a new classification simply to ensure that other States are made aware of a particular situation. Under current procedures, whenever a herd is found to be affected with brucellosis and the epidemiological investigation leads to an adjacent, source, or contact herd in another State, that other State is immediately notified and joins in the investigation. For States that are not directly affected in that way, notification of the situation is accomplished through the monthly reports that APHIS sends to the animal health officials in every State. The need for a more immediate all-States notification mechanism was not

identified by the State and Federal animal health officials who suggested the procedure for retaining Class Free status that led to this proposed rule. However, we encourage State animal health officials and others to offer their suggestions regarding this notification issue in any comments they may wish to submit on this proposed rule.

Executive Order 12866 and Regulatory Flexibility Act

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

Producers and consumers have realized great financial savings from the success of the Cooperative State/Federal Brucellosis Eradication Program. Annual losses from lowered milk production, aborted calves and pigs, and reduced breeding efficiency have decreased from more than \$400 million in 1952 to less than \$1 million today. Studies indicate that if the brucellosis eradication program efforts were stopped, the costs of producing beef and milk could increase by an estimated \$80 million annually in less than 10 years with the gradual spread of brucellosis.

This proposed rule would amend the brucellosis regulations to allow a State to retain its Class Free status following the detection of an affected herd if the State meets certain conditions. These conditions, which would include depopulating the affected herd and taking measures to ensure that brucellosis has not spread from the affected herd, would allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State.

The entities potentially affected by this proposed rule are the 43 States, Puerto Rico, and the U.S. Virgin Islands that currently hold Class Free status and the producers of livestock in those States and territories. The total number of cattle and bison in United States was approximately 101.4 million in 1997, valued at about \$53.2 billion. There were 1,167,910 U.S. operations with cattle and bison in 1997. Over 97 percent of these operations are considered to be small entities, with gross cash value of less than \$500,000 each (USDA, National Agricultural Statistics Service, "Agricultural Statistics 1997," Washington, DC, 1997).

Allowing a State to retain its Class Free status under certain conditions could be expected to have an overall positive economic effect for several reasons. First, when a State's status is

upgraded from Class A to Class Free, the State realizes a cost savings through the reduction in the required level of brucellosis ring test (BRT) surveillance. The BRT must be conducted in a Class A State or area at least four times per year at approximately 90-day intervals, with all herds producing milk for sale in the State being required to be included in at least three of the four brucellosis ring tests conducted each year. When a State attains Class Free status, the level of BRT surveillance is lowered to two brucellosis ring tests per year for each herd producing milk for sale in the State. Thus, allowing a State to retain its Class Free status would enable the State to avoid the added testing and personnel costs associated with the higher level of BRT surveillance required of Class A States.

Second, allowing a State to retain its Class Free status would mean that herd owners in the State could continue to avoid the costs of pre-movement testing of their test-eligible cattle and bison. In a Class A State, test-eligible cattle and bison offered for sale interstate from other than certified-free herds must test negative for brucellosis prior to movement. Because that testing is not required for test-eligible cattle and bison in Class Free States, herd owners in a State allowed to retain its Class Free status under the provisions of this proposed rule would continue to be able to move their cattle or bison interstate without incurring the approximately \$3.25 per-head cost of testing.

Finally, in those cases in which a brucellosis-affected herd was depopulated in order for a State to retain its Class Free status, the costs of that depopulation could be largely offset through the payment of Federal indemnity for the destroyed animals. Under the brucellosis indemnity regulations in 9 CFR part 51, any owner whose herd of cattle or bison is destroyed because of brucellosis is eligible for the payment of Federal indemnity. The rate of indemnity is set as either: (1) The appraised value of each animal, minus its salvage value, or (2) a fixed rate of no more than \$250 per animal.

Class Free States would not be required to pursue the option offered by this proposed rule for retaining Class Free status following the detection of a brucellosis-affected herd. However, we believe that the economic benefits that a State would realize by taking action to avoid being downgraded to Class A status would far outweigh the costs of the herd depopulation, epidemiological investigation, and testing that would be required to retain Class Free status.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 would continue to read as follows:

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 78.1, in the definition of *Class Free State or area*, a new paragraph (b)(4) would be added to read as follows:

§ 78.1 Definitions.

* * * * *

Class free State or area. * * *

(b) * * *

(4) *Retaining Class Free status.* (i) If a single herd in a Class Free State is found to be affected with brucellosis, the State may retain its Class Free status if it meets the conditions of this paragraph. A State may retain its status in this manner only once during any 2-year period. The following conditions must be satisfied within 60 days of the identification of the infected animal:

(A) The affected herd must be immediately quarantined, tested for brucellosis, and depopulated; and

(B) An epidemiological investigation must be performed and the investigation must confirm that brucellosis has not spread from the affected herd. All herds on premises adjacent to the affected herd (adjacent herds), all herds from which animals may have been brought into the affected herd (source herds), and all herds that may have had contact with or accepted animals from the affected herd (contact herds) must be epidemiologically investigated, and each of those herds must be placed under an approved individual herd plan. If the investigating epidemiologist determines that a herd blood test for a particular adjacent herd, source herd, or contact herd is not warranted, the epidemiologist must include that determination, and the reasons supporting it, in the individual herd plan.

(ii) After the close of the 60-day period following the identification of the infected animal, APHIS will conduct a review to confirm that the requirements of paragraph (b)(4)(i) have been satisfied and that the State is in compliance with all other applicable provisions.

* * * * *

Done in Washington, DC, this 11th day of September 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–24950 Filed 9–16–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–71–AD]

RIN 2120–AA64

Airworthiness Directives; Burkhart GROB Luft-und Raumfahrt GmbH Model G 109B Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Burkhart GROB Luft-und Raumfahrt GmbH (Grob) Model G 109B gliders. The proposed AD would require inspecting the elevator and trim tab for water and

to assure that the necessary drain holes are installed and that the existing drain holes are open. The proposed AD would also require drilling any necessary drain holes and opening any existing drain holes that are closed; and, if a significant amount of water (more than ½ liter) is found in the elevator, assuring that the glider's residual momentum and center of gravity (C.G.) are within the limits specified in the flight manual, and adjusting the residual momentum and C.G., as needed. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent water from penetrating the elevator and trim tab because of inadequate drainage, which could result in a delaminated elevator and trim tab structure with consequent elevator imbalance and flutter.

DATES: Comments must be received on or before October 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–71–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Burkhart Grob Luft-und Raumfahrt, D–8939 Mattsies, Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 that summarizes 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-CE-71-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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-71-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Grob Model G 109B gliders. The LBA reports that the above-referenced gliders may not have an adequate number of drain holes in the elevator and trim tab.

Inadequate elevator and trim tab drainage, if not corrected in a timely manner, could result in water penetrating the elevator and trim tab. This could lead to a delaminated elevator and trim tab structure with consequent elevator imbalance and flutter.

Relevant Service Information

Grob has issued Service Bulletin TM 817-35, dated July 20, 1992, which specifies procedures for inspecting the elevator and trim tab for water and to assure that the necessary drain holes are installed and that the existing drain holes are open. The service bulletin also specifies drilling any necessary drain holes and opening any existing drain holes that are closed; and, if a significant amount of water (more than 1/2 liter) is found in the elevator, assuring that the glider's residual momentum and C.G., are within the limits specified in the flight manual, and adjusting the residual momentum and C.G., as needed.

The LBA classified this service bulletin as mandatory and issued German AD 92-350 Grob, dated October 26, 1992, in order to assure the

continued airworthiness of these gliders in Germany.

The FAA's Determination

This glider model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Grob G 109B gliders of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the elevator and trim tab for water and to assure that the necessary drain holes are installed and that the existing drain holes are open. The AD would also require drilling any necessary drain holes and opening any existing drain holes that are closed; and, if a significant amount of water (more than 1/2 liter) is found in the elevator, assuring that the glider's residual momentum and C.G. are within the limits specified in the flight manual, and adjusting the residual momentum and C.G., as needed. Accomplishment of the proposed actions would be in accordance with Grob Service Bulletin TM 817-35, dated July 20, 1992.

Cost Impact

The FAA estimates that 20 gliders in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per glider to accomplish the proposed inspection, and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be \$1,200, or \$60 per glider.

If drain holes need to be added, the FAA estimates that it would take approximately 1 workhour per glider to accomplish the proposed modification, and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed modification on U.S. operators

is estimated to be \$60 per glider that would need drain holes installed.

Compliance Time of the Proposed AD

The compliance time of the proposed AD is presented in calendar time instead of hours time-in-service (TIS). The unsafe condition is not a result of the number of times the glider is operated. If the elevator and trim tab of the affected gliders have inadequate drainage, then water could penetrate the elevator and trim tab on the first flight, as well as subsequent flights. The delamination and imbalance that could then occur can happen in a very short period of time or happen over a long period of time. For these reasons, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all gliders in a reasonable time period.

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 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) 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 has been placed 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 (AD) to read as follows:

Burkhart Grob Luft-und Raumfahrt GMBH:
Docket No. 98-CE-71-AD.

Applicability: Model G 109B gliders, all serial numbers beginning with 6200, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent water from penetrating the elevator and trim tab because of inadequate drainage, which could result in a delaminated elevator and trim tab structure with consequent elevator imbalance and sailplane flutter, accomplish the following:

(a) Within the next 6 calendar months after the effective date of this AD, inspect the elevator and trim tab for water and to assure that the necessary drain holes are installed and that the existing drain holes are open. Accomplish these actions in accordance with the Actions section of Grob Service Bulletin TM 817-35, dated July 20, 1992. Prior to further flight after the inspection, accomplish the following as specified in the service bulletin:

(1) Drill any necessary drain holes and open any existing drain holes that are closed; and,

(2) If a significant amount of water (more than 1/2 liter) is found in the elevator, assure that the glider's residual momentum and center of gravity (C.G.) are within the limits specified in the flight manual, and adjust the residual momentum and C.G. as needed.

(b) 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 glider to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be

forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Grob Service Bulletin TM 817-35, dated July 20, 1992, should be directed to Burkhart Grob Luft-und Raumfahrt, D-8939 Mattsies, Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD 92-350 Grob, dated October 26, 1992.

Issued in Kansas City, Missouri, on September 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24875 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-53-AD]

RIN 2120-AA64

Airworthiness Directives; EXTRA Flugzeugbau GmbH Models EA-300, EA-300S, and EA-300L Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain EXTRA Flugzeugbau GmbH (EXTRA) Models EA-300, EA-300S, and EA-300L airplanes. The proposed AD would require repetitively inspecting the rudder pedal for proper alignment, the safety control stop for wear and proper clearance, the rudder cables for elongation, and the rudder pedal footrest for cracks. The proposed AD would also require correcting or replacing any discrepant part, as applicable. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent failure of the rudder pedal footrest caused by overloading the rudder pedal safety control stop, which could result

in loss of directional control of the airplane.

DATES: Comments must be received on or before October 16, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-53-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, D-46569 Hünxe, Federal Republic of Germany; telephone: (01 49 28 58) 91 37-13; facsimile: (01 49 28 58) 91 37-30. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6934; facsimile: (816) 426-2169.

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 that summarizes 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-CE-53-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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-53-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain EXTRA Models EA-300, EA-300S, and EA-300L airplanes. The LBA advises that the rudder pedal footrest on one of the affected airplanes failed during flight.

Investigation shows that the rudder cable had stretched or elongated or that the rudder pedal system was misaligned. This allowed the rudder pedal to contact the rudder pedal second (safety) control stop (safety control stop). Continued contact with the rudder pedal safety control stop can eventually cause cracks in the rudder pedal footrest with consequent failure of the footrest. The purpose of the safety control stop is to protect the lower brake system in case of a rudder cable failure. The rudder pedal safety control stop should not be reached under normal operating conditions.

These conditions, if not corrected, could result in failure of the rudder pedal footrest and loss of rudder control with consequent loss of directional control of the airplane.

Relevant Service Information

EXTRA has issued Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998, which specifies procedures for the following:

- inspecting the rudder pedal alignment, and if not aligned properly, either re-rigging the rudder cables or replacing the rudder cables if alignment cannot be obtained (if the cables are elongated);
- inspecting the safety control stop for wear (rubbing, scrapes, etc.); and if the safety control stop is worn, replacing the safety control stop, and either re-rigging the rudder cables or replacing the rudder cable (if the cable is elongated);
- inspecting the safety control stop for proper clearance; and if the clearance does not meet the minimum specified clearance, re-rigging the rudder cable, replacing the rudder cable (if the cable is elongated), or replacing the safety control stop;
- inspecting the rudder pedal footrest flange in the area of the safety wire

hole for cracks, and if cracks are found, replacing the footrest.

The LBA classified this service bulletin as mandatory and issued German AD No. 95-443 EXTRA, dated November 29, 1995, in order to assure the continued airworthiness of these airplanes in Germany.

The FAA's Determination

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other EXTRA Models EA-300, EA-300S, and EA-300L airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require repetitively inspecting the rudder pedal stop for wear and proper clearance, the rudder cable for proper alignment, and the rudder pedal footrest for cracks. The proposed AD also would require correcting or replacing any discrepant part, as applicable. Accomplishment of the proposed actions would be required in accordance with EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998.

Cost Impact

The FAA estimates that 15 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed inspections, and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$3,600, or \$240 per airplane. These figures do not take into account any corrective action that would be necessary after accomplishing the proposed inspections.

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 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) 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 has been placed 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 (AD) to read as follows:

Extra Flugzeugbau GMBH: Docket No. 98-CE-53-AD.

Applicability: The following models and serial numbers, certificated in any category:

Model	Serial No.
EA-300	All serial numbers, if factory equipped or retrofitted with the electric actuated rudder pedal adjustment that was produced prior to November 1995.
EA-300S ..	001 through 028.

Model	Serial No.
EA-300L ...	001 through 015.

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

1. Inspections specified in this AD are required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 50 hours TIS.

2. Replacements or other follow-on corrective actions specified in this AD are required prior to further flight after the inspection when the discrepancy was found.

To prevent failure of the rudder pedal footrest caused by overloading the rudder pedal safety control stop, which could result in loss of directional control of the airplane, accomplish the following:

(a) Inspect the rudder pedal alignment in accordance with Figure 1 and Figure 2 and the Instructions Part I.1 section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If not aligned, prior to further flight, accomplish one of the following, as applicable, in accordance with the service bulletin:

(1) Re-rig the rudder cables to attain proper alignment; or

(2) Replace the rudder cables if alignment cannot be attained.

(b) For all airplanes equipped at manufacture with a safety control stop

(See **Note 2** of this AD), inspect the safety control stop for wear (rubbing, scrapes, etc.) in accordance with the Instructions Part I.2 section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If the safety control stop is worn, prior to further flight, replace the safety control stop and accomplish one of the following, as applicable, in accordance with the service bulletin:

(1) Re-rig the rudder cable if elongation of the cable is not evident; or

(2) Replace the rudder cable if elongation of the cable is evident.

Note 2: The Model EA-300/S airplanes, serial numbers 001 through 011, were not factory equipped with a safety control stop.

(c) Inspect the footrest flange in the area of the safety wire hole for cracks in accordance with the Instructions Part I.3 section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If cracks are found, prior to further flight, replace the rudder pedal in accordance with instructions

obtained from the Small Airplane Directorate at the address specified in paragraph (g) of this AD.

(d) For all airplanes equipped at manufacture with a safety control stop (See **Note 2** of this AD), inspect the safety control stop clearance in accordance with the Instructions Part I.4 and Instructions Part II section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If the clearance does not meet the minimum specified clearance, prior to further flight, accomplish one of the following, as applicable, in accordance with the service bulletin:

(1) Adjust the foot rest to meet the required clearance if elongation of the cable is not evident; or

(2) Replace the rudder cable if elongation of the cable is evident.

(e) 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.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) Questions or technical information related to EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998, should be directed to EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, D-46569 Hünxe, Federal Republic of Germany; telephone: (0 28 58) 91 37-00; facsimile: (0 28 58) 91 37-30. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in German AD No. 95-443 EXTRA, dated November 29, 1995.

Issued in Kansas City, Missouri, on September 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24874 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-234-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 series airplanes. This proposal would require modification of the emergency evacuation slide/raft system. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent the container release cable of the emergency evacuation slide/raft system from jamming, which could result in the inability to open the emergency exit doors or to correctly deploy the emergency evacuation slide/rafts, and consequent delay or impedance passengers exiting the airplane during an emergency.

DATES: Comments must be received by October 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-234-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-234-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-234-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300 series airplanes. The DGAC advises that during an evacuation test of certain airplanes equipped with Air Cruisers emergency evacuation slide/rafts, the evacuation slide/rafts failed to deploy correctly. These failures were attributed to detachment of the slide/raft of the container release cable from the girt of the slide/raft due to excessive forces applied to the cable when it became jammed in a gap between adjoining components of the slide/raft system. Investigation revealed that the existing slide/raft system design may allow a gap to develop between the packboard and pinblock assembly in which the container release cable can

become jammed. Such jamming of the container release cable can result in the inability to open the emergency exit doors or to correctly deploy the emergency evacuation slide/rafts. These conditions, if not corrected, could impede or delay passengers from exiting the airplane during an emergency.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300-25-0465, dated October 31, 1997, which describes procedures for modification of the emergency evacuation slide/raft system. The modification includes the installation of reinforcement discs at both ends of the container release cable assembly, and the installation of retaining screws to secure the packboard skin to the pin block assembly. (Air Cruisers, the manufacturer of the emergency evacuation slide/raft system, has issued Service Bulletin S.B. 25-88, Revision 3, dated May 4, 1983, as an additional source of service information for accomplishment of the modification.) Accomplishment of the actions specified in the Airbus service bulletin is intended to adequately address the identified unsafe condition.

The DGAC classified the Airbus service bulletin as mandatory and issued French airworthiness directive 98-121-243(B), dated March 11, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the Airbus service bulletin described previously.

Cost Impact

The FAA estimates that 24 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed modification, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$1,200 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$37,440, or \$1,560 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 98–NM–234–AD.

Applicability: Model A300 series airplanes equipped with Air Cruisers emergency evacuation slide/rafts having part numbers (P/N) D30457–Series, serial numbers (S/N) 1001 through 2268 inclusive, or P/N D30477–Series, S/N 4001 through 4211 inclusive, on which the actions described in Air Cruisers Service Bulletin S.B. 25–88, Revision 3, dated May 4, 1983, have been not 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the container release cable of the emergency evacuation slide/raft system from jamming, which could result in the inability to open the emergency exit doors or to correctly deploy the emergency evacuation slide/rafts, and consequent delay or impedance passengers exiting the airplane during an emergency, accomplish the following:

(a) Within 36 months after the effective date of this AD, modify the emergency evacuation slide/raft system, in accordance with Airbus Service Bulletin A300–35–0465, dated October 31, 1997.

Note 2: The Airbus service bulletin references Air Cruisers Service Bulletin S.B. 25–88, Revision 3, dated May 4, 1983, as an additional source of service information for modifying the emergency evacuation slide/raft system.

(b) As of the effective date of this AD, no person shall install an evacuation slide/raft system having Air Cruisers P/N D30457–Series, S/N 1001 through 2268 inclusive, or P/N D30477–Series, S/N 4001 through 4211 inclusive, on any airplane, unless the slide/raft system has been modified in accordance with 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, International Branch, ANM–116, FAA,

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

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

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

Note 4: The subject of this AD is addressed in French airworthiness directive 98–121–243(B), dated March 11, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–24873 Filed 9–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 96–NM–227–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This proposal would require inspections to detect attachment failures of the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap, and to detect cracking of the forward and aft flanges and bolt holes of the No. 4 banjo fitting; repair, if necessary; and replacement of the 12 attachments with new or serviceable parts. Such replacement would terminate the repetitive inspections. This proposal is prompted by a report indicating that attachment bolts on the forward and aft flanges of the No. 4 banjo fitting and the pylon carry-through cap failed due to fatigue cracking. The actions specified by the proposed AD are intended to prevent such cracking, which could result in

reduced controllability of the airplane during flight and ground operations.

DATES: Comments must be received by November 2, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–227–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 The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: John L. Cecil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5229; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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 96-NM-227-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. 96-NM-227-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports indicating that attachment bolts on the forward and aft flanges of the No. 4 banjo fitting and the pylon carry-through cap had failed on McDonnell Douglas Model MD-11 series airplanes. Investigation revealed that the steel attachment bolts had failed due to fatigue cracking. In addition, another report indicated that a 20-mm long crack in the forward flange of the No. 4 banjo fitting of the lower vertical stabilizer also had been detected. That airplane had accumulated 4,949 flight cycles and had logged 24,282 flight hours.

Fatigue cracking of the attachment bolts of the No. 4 banjo fittings, if not detected and corrected in a timely manner, could cause cracking of the flanges; such cracking, if not prevented, could result in reduced controllability of the airplane during flight and ground operations.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas MD-11 Service Bulletin 55-13, dated December 22, 1992, and Revision 1, dated December 17, 1993; and McDonnell Douglas Service Bulletin MD-11-55-013, Revision 02, dated October 28, 1996, and Revision 03, dated May 15, 1998; which are described as follows:

- The original issue of the service bulletin describes procedures for replacement of the 12 attachment bolts located on the No. 4 banjo fitting/pylon carry-through cap with improved attachment bolts. These improved bolts are made from a higher strength and more corrosion resistant material. Replacement of the existing bolts with the improved bolts will minimize the possibility of attachment failures.

- Revision 1 of the service bulletin adds an eddy current inspection to detect cracking of both the forward and

aft flanges and of the bolt holes of the No. 4 banjo fitting, and replacement of the attachment bolts with a new or serviceable attachment bolts, if necessary. Revision 1 also adds airplanes to the effectivity of the original issue of the service bulletin.

- Revision 02 of the service bulletin adds procedures for repetitive visual inspections to detect any discrepancies of the 12 attachments bolts located on the No. 4 banjo fitting/pylon carry-through cap, and repair, if necessary.

- Revision 03 of the service bulletin specifies revised part numbers of second oversize Hi-Lok attachments. Revision 03 also specifies certain conditions for which additional work may or may not be necessary.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that the service bulletin specifies that the manufacturer may be contacted if holes require enlargement beyond certain specifications, or for an evaluation for deferment of certain repairs. However, this proposal would require disposition of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 82 airplanes of the affected design in the worldwide fleet. The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 1 work hour per airplane to accomplish the proposed external visual inspection, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$1,860, or \$60 per airplane, per inspection cycle.

The FAA estimates that it would take approximately 2 work hours per airplane to accomplish the proposed eddy current inspection, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact

of the proposed AD on U.S. operators is estimated to be \$3,720, or \$120 per airplane.

The FAA estimates that it would take approximately 6 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$250 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$18,910, or \$610 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 96–NM–227–AD.

Applicability: Model MD–11 series airplanes; as listed in McDonnell Douglas Service Bulletin MD11–55–013, Revision 03, dated May 15, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the attachment bolts on the forward and aft flanges of the No. 4 banjo fitting and the pylon carry-through cap due to fatigue cracking, and consequent reduced controllability of the airplane during flight and ground operation, accomplish the following:

(a) Within 1,500 landings after the effective date of this AD, perform an external visual inspection for attachment failures of the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap, in accordance with McDonnell Douglas Service Bulletin MD11–55–013, Revision 02, dated October 28, 1996; or Revision 03, dated May 15, 1998.

(1) If no failed attachment is found, repeat the external visual inspection thereafter at intervals not to exceed 1,500 landings until the terminating action specified in paragraph (b) of this AD is accomplished.

(2) If any failed attachment is found, prior to further flight, accomplish the actions specified in paragraph (b) of this AD.

(b) Except as provided by paragraph (c) of this AD: Within 5 years after the effective date of this AD, perform an eddy inspection to detect cracking of the forward and aft flanges and bolt holes of the No. 4 banjo fitting, in accordance with McDonnell Douglas MD–11 Service Bulletin 55–13, Revision 1, dated December 17, 1993; or McDonnell Douglas Service Bulletin MD11–55–013, Revision 02, dated October 28, 1996; or McDonnell Douglas Service Bulletin MD11–55–013, Revision 03, dated May 15, 1998.

(1) If no cracking is found, within 5 years after the effective date of this AD, replace the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap with new or serviceable attachments in accordance with Revision 03 of the service bulletin. Such

replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(2) If any cracking is found, prior to further flight, repair the fitting, and replace the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap with new or serviceable attachments in accordance with Revision 03 of the service bulletin. Such replacement constitutes terminating for the repetitive inspections required by paragraph (a) of this AD.

(c) For airplanes on which McDonnell Douglas MD–11 Service Bulletin 55–13, dated December 22, 1992, has been accomplished, and on which no failed attachment was found during the inspection required by paragraph (a) of this AD: The eddy current bolt hole inspection specified in paragraph (b) of this AD is not required provided that all 12 attachments have been replaced in accordance with the original issue of the service bulletin.

(d) If the service bulletin specifies that the manufacturer may be contacted for disposition of enlargement of holes beyond the specifications of the service bulletin, or for an evaluation for deferment of repairs: Those conditions shall be addressed in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

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

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–24869 Filed 9–16–98; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 34 and 35

Concept Release Concerning Over-the-Counter Derivatives

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period on Concept Release.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission (Commission) issued a Concept Release concerning over-the-counter derivatives on May 12, 1998 (63 FR 26114). Comments on the Concept Release were originally due on July 13, 1998, but the Commission extended the deadline until September 11, 1998 in response to a request for an extension from the Chicago Mercantile Exchange, the Futures Industry Association, and the Managed Futures Association. See 63 FR 34335 (June 24, 1998). In response to a new request by the Futures Industry Association, the Commission has determined to extend the comment period for an additional 30 days. The extended deadline for comments on the Concept Release is October 13, 1998.

Any person interested in submitting comments on the Concept Release should submit them by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov.

DATES: Comments must be received on or before October 13, 1998.

FOR FURTHER INFORMATION CONTACT: John Lawton, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington DC 20581. Telephone (202) 418–5430.

Issued in Washington, DC, on September 11, 1998 by the Commodity Futures Trading Commission.

Jean Webb,

Secretary of the Commission.

Remarks of Commissioner Barbara Pedersen Holum

Concurring in Part and Dissenting in Part

Federal Register Release Extending the Comment Period on the Concept Release Concerning Over-the-Counter Derivatives

I concur in the Commission decision to extend the comment period on the OTC Derivatives Concept Release, but dissent from the short 30-day extension in favor of a 384-day extension to September 30, 1999.

The Futures Industry Association (FIA) requested a 30-day extension of the comment period. However, John Damgard, President of FIA, was very supportive of the proposed 384-day extension for the comment period.

Extension of the subject comment period for 384 days could effectively preserve the status quo and, therefore, provide the standstill sought by the Congress and the industry until the comment period closes. The proposed comment period and 384 days would terminate on September 30, 1999, in

conformity with standstill legislation proposed by House Agriculture Committee Chairman Smith. This seriatim action will most likely be the final opportunity for the Commission to achieve a regulatory moratorium, in light of the Chairperson's refusal to provide the Commission with an opportunity to vote on this important public policy issue.

Extension of the comment period for a longer period is necessary to avoid the need for emergency legislation and to reassure the markets that the legal status of swap and hybrid transactions will not change without Congressional action.

Dated: September 11, 1998.

Barbara Pedersen Holum,
Commissioner.

[FR Doc. 98-24890 Filed 9-16-98; 8:45 am]

BILLING CODE 6351-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[USAID Regulation 1]

RIN 0412-AA-34

Rules and Procedures Applicable to Commodity Transactions Financed by USAID: Inspection and Price Provisions

AGENCY: U.S. Agency for International Development, IDCA.

ACTION: Proposed rule withdrawn.

SUMMARY: The U.S. Agency for International Development (USAID) published a proposed rule in the **Federal Register** on August 8, 1997 (62 FR 42712). The proposed rule explained that USAID planned to change the procedure used to assure that prices paid to suppliers for transactions financed under Commodity Import Programs (CIPs) are fair and reasonable by implementing a pre-shipment review process managed from USAID/Washington. USAID has instead decided that its Mission in Egypt will manage all aspects of the CIP since the only remaining program is in Egypt. The Mission in Egypt does not plan to implement a pre-shipment review program; therefore, the proposed rule is being withdrawn.

FOR FURTHER INFORMATION CONTACT:
Kathleen J. O'Hara, (202) 712-0610.

Dated: September 4, 1998.

Marcus L. Stevenson,
Procurement Executive.

[FR Doc. 98-24879 Filed 9-16-98; 8:45 am]

BILLING CODE 6116-71-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-164, RM-9357]

Radio Broadcasting Services; Linn, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by R. Lee and Sarah H. Wheeler, proposing the allotment of Channel 276A to Linn, Missouri, as that community's first local broadcast service. The channel can be allotted to Linn without a site restriction at coordinates 38-29-06 and 91-51-06. **DATES:** Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John M. Pelkey, Haley Bader & Potts, P.L.C., 4350 North Fairfax Drive, Suite 900, Arlington, VA 22203-1633.

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. 98-164, adopted September 2, 1998, and released September 11, 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. 98-24984 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-162, RM-9263]

Radio Broadcasting Services; Sugar Hill and Toccoa, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Southern Broadcasting of Pensacola, Inc., seeking the substitution of Channel 291C1 for Channel 291C at Toccoa, GA, the reallocation of Channel 291C1 from Toccoa to Sugar Hill, GA, and the modification of Station WSTE-FM's license accordingly. The Commission requests comments on whether pre-1964 stations grandfathered short-spaced stations and pre-1989 grandfathered short-spaced Class A stations should be allowed to change their community of license where there is no change in their presently licensed technical facilities. Channel 291C1 can be allotted to Sugar Hill with a site restriction of 45.7 kilometers (28.4 miles) northeast, at coordinates 34-22-41 NL; 83-39-30 WL. This site, which is the transmitter site specified in Station WSTE-FM's outstanding construction permit (BPH-970325IC), will maintain the present grandfathered short-spacing to Station WYAY, Channel 294C, Gainesville, GA.

DATES: Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Smithwick & Belendiuk, P.C., 1990 M Street, N.W., Suite 510, Washington, D.C. 20036 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of

Proposed Rule Making, MM Docket No. 98-162, adopted September 2, 1998, and released September 11, 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.

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* contacts.

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. 98-24982 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-158, RM-9342]

Radio Broadcasting Services; Grants and Peralta, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Educational Media Foundation ("petitioner"), permittee of noncommercial educational Station KQLV, Channel 288C, Grants, NM, requesting the substitution of Channel 288C1 for Channel 288C at Grants, the reallocation of Channel 288C1 to Peralta, NM, as the community's first local aural service, the modification of Station KQLV's permit to specify Peralta as its community of license and the allotment of Channel 244C3 to Grants as its fourth local FM service. Channel 288C1 can be

allotted to Peralta in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.3 kilometers (7.6 miles) west, at coordinates 34-47-55 NL; 106-48-59, to accommodate petitioner's desired transmitter site. Channel 244C3 can be allotted to Grants without the imposition of a site restriction, at coordinates 35-09-06; 107-51-36.

DATES: Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert C. Fisher, Veronica D. McLaughlin, Fisher Wayland Cooper Leader & Zaragoza L.L.P., 2001 Pennsylvania Avenue, NW, Suite 400, Washington, DC 20006-1851 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-158, adopted September 2, 1998, and released September 11, 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.

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* contacts.

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. 98-24981 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-165, RM-9322]

Radio Broadcasting Services; Refugio, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by WAB Broadcasting, proposing the allotment of Channel 263A to Refugio, Texas. The channel can be allotted to Refugio with a site restriction 5 kilometers (3.1 miles) north of the community. The coordinates for Channel 263A are 28-21-00 and 97-16-30. Concurrence of the Mexican government will be requested for this allotment.

DATES: Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lawrence Roberts, Davis Wright Tremaine LLP, 1155 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20036.

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. 98-165, adopted September 2, 1998, and released September 11, 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. 98-24979 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-204; RM-8876, RM-9015]

Radio Broadcasting Services; Martin, Tiptonville, and Trenton, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of petition.

SUMMARY: The Commission denies the petition for rule making filed by Thunderbolt Broadcasting Company proposing the substitution of Channel 267C3 for Channel 269A at Martin, Tennessee. To accommodate the upgrade, petitioner also proposed the deletion of vacant Channel 267C3 at Tiptonville, Tennessee (RM-8876). See 61 FR 53698, October 15, 1996. Additionally, we deny petitioner's alternative proposal seeking the substitution of Channel 267C3 for Channel 269A at Martin, Tennessee; the substitution of Channel 247A for Channel 267C3 at Tiptonville; and the substitution of Channel 249C3 for Channel 248C3 at Trenton, Tennessee (RM-9015). At the request of Joe Myers

Productions, Inc., we dismiss its proposal to allot Channel 267A at Princeton, Kentucky. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-204, adopted September 2, 1998, and released September 11, 1998. The full text of this Commission decision is available for inspection and copying during 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 contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

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. 98-24983 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

Proposed Rules

Federal Register

Vol. 63, No. 180

Thursday, September 17, 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

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 98-060-1]

Brucellosis; Procedures for Retaining Class Free State Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the brucellosis regulations to allow a State to retain its Class Free status following the detection of an affected herd if the State meets certain conditions. These conditions, which would include quarantining, testing, and depopulating the affected herd and conducting an investigation to ensure that brucellosis has not spread from the affected herd, would allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State. We believe that providing this option to States would encourage the prompt resolution of isolated cases of brucellosis and thus ensure the continued progress of State and Federal efforts toward the eradication of brucellosis in domestic cattle and bison herds. Without this proposed change in the regulations, a State could lose its Class Free status following the detection of a single affected herd and would not have as great an incentive to take swift and decisive action to determine the source of the infection, eliminate the affected herd, and ensure that the disease had not spread to other herds in the State.

DATES: Consideration will be given only to comments received on or before November 2, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98-060-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Please state that your comments refer to Docket No. 98-060-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Valerie Ragan, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 36, Riverdale, MD 20737-1231, (301) 734-7708.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*. In its principal animal hosts, brucellosis is characterized by abortion and impaired fertility.

Through a cooperative State and Federal effort, the United States is now approaching total eradication of the field strain *Brucella abortus* in domestic cattle and bison herds. As of July 31, 1998, there were only 9 known infected domestic cattle and bison herds, and the U.S. Department of Agriculture's (USDA's) Animal and Plant Health Inspection Service (APHIS) had declared 43 States, Puerto Rico, and the U.S. Virgin Islands free of the disease.

The brucellosis regulations contained in 9 CFR part 78 (referred to below as the regulations) provide a system for classifying States or portions of States (areas) according to the rate of *Brucella abortus* infection present and the general effectiveness of the brucellosis control and eradication program conducted in the State or area. The classifications are Class Free, Class A, Class B, and Class C; States or areas that do not meet the minimum standards for Class C may be placed under Federal quarantine. At this point in the cooperative State/Federal brucellosis eradication program, all States have achieved either Class Free or Class A status.

To maintain Class Free status, the regulations require, among other things, that a State must have a herd infection rate of 0.0 percent or 0 herds per 1,000. A State's herd infection rate is based on the number of herds found to have

brucellosis reactors within the State during any 12 consecutive months due to field strain *Brucella abortus*. The required 0.0 percent herd infection rate means that a Class Free State would no longer qualify for Class Free status if a single brucellosis-affected herd was detected in the State. A downgrade in status from Class Free to Class A results in increased costs for States and their livestock owners, with most of those added costs arising from the increased testing requirements that accompany Class A status.

The cooperative State/Federal brucellosis eradication program is nearing its conclusion, with eradication of the disease in domestic cattle and bison herds being projected by the end of 1998. With the eradication program entering its latter stages, several States that historically had significant levels of brucellosis have been able to attain Class Free status. Although these States have successfully eliminated the remaining known infected herds within their borders, we believe that it is possible that some of these States may find an isolated herd affected with brucellosis. That was the case recently with Louisiana. Louisiana attained Class Free status in October 1996, but, due to the detection of brucellosis in two herds within the State, was downgraded to Class A in an interim rule effective on June 16, 1998, and published in the **Federal Register** on June 24, 1998 (63 FR 34264-34266, Docket No. 98-068-1).

State and Federal animal health officials have recognized the need for a procedure that would allow a brucellosis Class Free State to maintain its status if an isolated case of brucellosis infection occurs and it can be confirmed that the disease did not spread outside of the herd. We agree that such a strategy is appropriate at this stage of the brucellosis eradication program, when each new herd found to be affected with brucellosis is handled in an emergency action mode in order to quickly resolve the case and ensure continued progress toward eradication. We believe that a procedure that gives a Class Free State the opportunity to retain its status following the detection of an affected herd would be a powerful incentive that would encourage a State in that situation to take swift and decisive action to determine the source of the infection, eliminate the affected

herd, and ensure that the disease has not spread to other herds in the State.

Therefore, we are proposing to amend the definition of *Class Free State or area* in § 78.1 of the regulations by adding a new paragraph (b)(4) that would explain the conditions that a State would have to meet in order to retain its Class Free status after the detection of an affected herd within the State.

This proposed procedure is intended to address cases in which a Class Free State encounters an isolated incident in which a herd affected with brucellosis is discovered; it is not intended to be a regular feature of a State's maintenance of its Class Free status. Therefore, the introductory text of new paragraph (b)(4) would provide that a State could use the procedure only in cases where a single herd is found to be affected with brucellosis, and only once in any 2-year period. We would impose these limitations because we believe that the detection of more than one affected herd within a 2-year period is indicative of a brucellosis problem that is more widespread than the isolated cases this proposed procedure is intended to address.

The steps that a State would have to take to retain its Class Free status would be clear-cut and consistent with the goals of emergency disease management: Within 60 days of identifying the initial infected animal, the State would have to eliminate the affected herd and ensure that infection has not spread. To attain these goals, we would require that the State immediately quarantine the affected herd upon its disclosure. After quarantining the herd to ensure that there is no potential for further spread of the disease from the herd, all the animals in the herd would have to be tested for brucellosis and slaughtered as soon as possible within the 60-day period. Testing the herd prior to, or at the time of, depopulation would provide epidemiologists with information as to the extent of the brucellosis infection in the herd and other information of that nature that would be useful as animal health personnel pursue the other aspect of the State's response to the detection of the affected herd, i.e., a complete epidemiological investigation of the herd to attempt to determine the source of the infection and ensure that brucellosis has not spread.

The epidemiological investigation that would be required would involve the identification and investigation of all herds on premises adjacent to the affected herd (adjacent herds), all herds from which animals may have been brought into the affected herd (source

herds), and all herds that may have had contact with or accepted animals from the affected herd (contact herds). Once all adjacent, source, and contact herds had been identified, each of those herds would have to be placed under an approved individual herd plan.

An approved individual herd plan, as defined in 78.1, is a herd management and testing plan designed by the herd owner, the owner's veterinarian if requested, and a State representative or APHIS representative to determine the disease status of the animals in the herd and, in those cases where the disease is found to be present, to control and eradicate brucellosis within the herd. An individual herd plan must be jointly approved by the State animal health official and the APHIS Veterinarian in Charge. The use of an approved individual herd plan under the circumstances envisioned in this proposed rule would ensure that any testing or other measures determined to be necessary could be instituted after being agreed upon by the herd owner, the State, and APHIS.

In most cases, the approved individual herd plan will require herd blood tests—i.e., the brucellosis testing of all test-eligible animals in a herd—for each of the adjacent, source, and contact herds identified in the course of the epidemiological investigation. However, we acknowledge that there may be some instances in which a herd blood test may not be necessary given the facts of the situation. For example, a herd may be identified as a contact herd on the basis of its having received animals from the affected herd. If, however, it was determined that the only animals the contact herd received from the affected herd were steers, which pose no threat of disseminating brucellosis, then it would serve little practical purpose from an epidemiological standpoint to require a herd blood test for the contact herd. Another example of this type of situation would be a case in which a herd is identified as a source herd on the basis of its having provided a heifer to the affected herd. If it was determined that the heifer left the source herd 8 years ago to join the affected herd, and the source herd has been a certified brucellosis-free herd for the last 10 years, then once again it would likely be unnecessary from an epidemiological standpoint to require that source herd to undergo a herd blood test.

Given that situations such as those described in the previous paragraph may occur, we are proposing to allow the epidemiologist investigating the affected herd to place an adjacent, source, or contact herd under an individual herd plan that does not

require a herd blood test if he or she determines that such testing is not warranted. That determination, along with the reasons supporting it, would have to be documented in the individual herd plan, which, as noted above, must be jointly approved by the State animal health official and the APHIS Veterinarian in Charge.

If additional herds affected with brucellosis were detected during the course of the epidemiological investigation and subsequent testing, the State would not be eligible to retain its Class Free status under this proposed procedure, but the identification of those herds would nonetheless aid the State in its efforts to eliminate brucellosis and begin the process of requalifying for Class Free status.

At the close of the 60-day period during which the State conducted the activities described in the preceding paragraphs, APHIS would review the actions taken by the State in response to the detection of the affected herd to confirm that the State had met all the conditions necessary to retain its Class Free status.

Alternatives Considered

The criteria for retaining Class Free status proposed in this document are similar in scope and substance to the requirements found in the definition of *accredited-free (suspended) State* in § 77.1 of our tuberculosis regulations in 9 CFR part 77. Specifically, an accredited free (suspended) State may regain its accredited-free status after quarantining the herd in which tuberculosis was detected, conducting an epidemiological investigation to determine that the infection has not spread from the herd, and destroying all reactor cattle and bison. The similarity of our proposed criteria for retaining Class Free status to those requirements led us to consider the possibility of establishing a new classification such as "Class Free (suspended) State" in the brucellosis regulations. However, for the reasons explained below, we have determined that an entirely new State classification would not be necessary in order for the objectives of this proposed rule to be accomplished.

Under the tuberculosis regulations, two herds must be found to be affected with tuberculosis within a 48-month period before a State's accredited-free status will be revoked. Without the accredited-free (suspended) classification, the detection of a single tuberculosis-affected herd in a State would have little effect other than to start the 48-month clock; there would not necessarily be an incentive for a State to act quickly to quarantine the

affected herd and ensure that tuberculosis has not and will not spread from that herd. The accredited-free (suspended) classification provides that incentive by allowing a State to qualify for redesignation as accredited-free as soon as the required quarantine, investigation, and destruction of reactors has been completed.

The brucellosis regulations, on the other hand, provide that a State may lose its Class Free status at any time upon the detection of a single brucellosis-affected cattle or bison herd. Given that immediacy, there is no need to provide for an interim downgrading of State status in order for a Class Free State to have an incentive for reacting quickly to the detection of brucellosis within its borders; any necessary incentive for quick action would be provided by this proposed rule's provisions for retaining Class Free status.

Another consideration in our rejection of the "Class Free (suspended)" alternative is the fact that the requirements of this proposed rule would have to be satisfied within 60 days in order for a State to retain its Class Free status. That necessarily brief window for action means that any rulemaking giving notice of a suspension in status would have to be followed in short order by another rulemaking returning the State to Class Free status or lowering it to Class A status. Given that this proposed rule would not place any additional requirements on the State's herds in general, we believe that adding a "suspended" classification would have little effect other than to cause a short-term shuffling of State status.

One benefit of adding a "suspended" classification would be that it would serve as a mechanism to notify other States of the detection of a brucellosis-affected herd in a Class Free State. However, that notification can also be accomplished through normal reporting methods, so we see no need to add a new classification simply to ensure that other States are made aware of a particular situation. Under current procedures, whenever a herd is found to be affected with brucellosis and the epidemiological investigation leads to an adjacent, source, or contact herd in another State, that other State is immediately notified and joins in the investigation. For States that are not directly affected in that way, notification of the situation is accomplished through the monthly reports that APHIS sends to the animal health officials in every State. The need for a more immediate all-States notification mechanism was not

identified by the State and Federal animal health officials who suggested the procedure for retaining Class Free status that led to this proposed rule. However, we encourage State animal health officials and others to offer their suggestions regarding this notification issue in any comments they may wish to submit on this proposed rule.

Executive Order 12866 and Regulatory Flexibility Act

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

Producers and consumers have realized great financial savings from the success of the Cooperative State/Federal Brucellosis Eradication Program. Annual losses from lowered milk production, aborted calves and pigs, and reduced breeding efficiency have decreased from more than \$400 million in 1952 to less than \$1 million today. Studies indicate that if the brucellosis eradication program efforts were stopped, the costs of producing beef and milk could increase by an estimated \$80 million annually in less than 10 years with the gradual spread of brucellosis.

This proposed rule would amend the brucellosis regulations to allow a State to retain its Class Free status following the detection of an affected herd if the State meets certain conditions. These conditions, which would include depopulating the affected herd and taking measures to ensure that brucellosis has not spread from the affected herd, would allow a State to avoid losing its Class Free status due to an isolated case of infection being detected in the State.

The entities potentially affected by this proposed rule are the 43 States, Puerto Rico, and the U.S. Virgin Islands that currently hold Class Free status and the producers of livestock in those States and territories. The total number of cattle and bison in United States was approximately 101.4 million in 1997, valued at about \$53.2 billion. There were 1,167,910 U.S. operations with cattle and bison in 1997. Over 97 percent of these operations are considered to be small entities, with gross cash value of less than \$500,000 each (USDA, National Agricultural Statistics Service, "Agricultural Statistics 1997," Washington, DC, 1997).

Allowing a State to retain its Class Free status under certain conditions could be expected to have an overall positive economic effect for several reasons. First, when a State's status is

upgraded from Class A to Class Free, the State realizes a cost savings through the reduction in the required level of brucellosis ring test (BRT) surveillance. The BRT must be conducted in a Class A State or area at least four times per year at approximately 90-day intervals, with all herds producing milk for sale in the State being required to be included in at least three of the four brucellosis ring tests conducted each year. When a State attains Class Free status, the level of BRT surveillance is lowered to two brucellosis ring tests per year for each herd producing milk for sale in the State. Thus, allowing a State to retain its Class Free status would enable the State to avoid the added testing and personnel costs associated with the higher level of BRT surveillance required of Class A States.

Second, allowing a State to retain its Class Free status would mean that herd owners in the State could continue to avoid the costs of pre-movement testing of their test-eligible cattle and bison. In a Class A State, test-eligible cattle and bison offered for sale interstate from other than certified-free herds must test negative for brucellosis prior to movement. Because that testing is not required for test-eligible cattle and bison in Class Free States, herd owners in a State allowed to retain its Class Free status under the provisions of this proposed rule would continue to be able to move their cattle or bison interstate without incurring the approximately \$3.25 per-head cost of testing.

Finally, in those cases in which a brucellosis-affected herd was depopulated in order for a State to retain its Class Free status, the costs of that depopulation could be largely offset through the payment of Federal indemnity for the destroyed animals. Under the brucellosis indemnity regulations in 9 CFR part 51, any owner whose herd of cattle or bison is destroyed because of brucellosis is eligible for the payment of Federal indemnity. The rate of indemnity is set as either: (1) The appraised value of each animal, minus its salvage value, or (2) a fixed rate of no more than \$250 per animal.

Class Free States would not be required to pursue the option offered by this proposed rule for retaining Class Free status following the detection of a brucellosis-affected herd. However, we believe that the economic benefits that a State would realize by taking action to avoid being downgraded to Class A status would far outweigh the costs of the herd depopulation, epidemiological investigation, and testing that would be required to retain Class Free status.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we propose to amend 9 CFR part 78 as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 would continue to read as follows:

Authority: 21 U.S.C. 111–114a-1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 78.1, in the definition of *Class Free State or area*, a new paragraph (b)(4) would be added to read as follows:

§ 78.1 Definitions.

* * * * *

Class free State or area. * * *

(b) * * *

(4) *Retaining Class Free status.* (i) If a single herd in a Class Free State is found to be affected with brucellosis, the State may retain its Class Free status if it meets the conditions of this paragraph. A State may retain its status in this manner only once during any 2-year period. The following conditions must be satisfied within 60 days of the identification of the infected animal:

(A) The affected herd must be immediately quarantined, tested for brucellosis, and depopulated; and

(B) An epidemiological investigation must be performed and the investigation must confirm that brucellosis has not spread from the affected herd. All herds on premises adjacent to the affected herd (adjacent herds), all herds from which animals may have been brought into the affected herd (source herds), and all herds that may have had contact with or accepted animals from the affected herd (contact herds) must be epidemiologically investigated, and each of those herds must be placed under an approved individual herd plan. If the investigating epidemiologist determines that a herd blood test for a particular adjacent herd, source herd, or contact herd is not warranted, the epidemiologist must include that determination, and the reasons supporting it, in the individual herd plan.

(ii) After the close of the 60-day period following the identification of the infected animal, APHIS will conduct a review to confirm that the requirements of paragraph (b)(4)(i) have been satisfied and that the State is in compliance with all other applicable provisions.

* * * * *

Done in Washington, DC, this 11th day of September 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–24950 Filed 9–16–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–71–AD]

RIN 2120–AA64

Airworthiness Directives; Burkhart GROB Luft-und Raumfahrt GmbH Model G 109B Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Burkhart GROB Luft-und Raumfahrt GmbH (Grob) Model G 109B gliders. The proposed AD would require inspecting the elevator and trim tab for water and

to assure that the necessary drain holes are installed and that the existing drain holes are open. The proposed AD would also require drilling any necessary drain holes and opening any existing drain holes that are closed; and, if a significant amount of water (more than ½ liter) is found in the elevator, assuring that the glider's residual momentum and center of gravity (C.G.) are within the limits specified in the flight manual, and adjusting the residual momentum and C.G., as needed. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent water from penetrating the elevator and trim tab because of inadequate drainage, which could result in a delaminated elevator and trim tab structure with consequent elevator imbalance and flutter.

DATES: Comments must be received on or before October 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–71–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Burkhart Grob Luft-und Raumfahrt, D–8939 Mattsies, Germany. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 that summarizes 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-CE-71-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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-71-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Grob Model G 109B gliders. The LBA reports that the above-referenced gliders may not have an adequate number of drain holes in the elevator and trim tab.

Inadequate elevator and trim tab drainage, if not corrected in a timely manner, could result in water penetrating the elevator and trim tab. This could lead to a delaminated elevator and trim tab structure with consequent elevator imbalance and flutter.

Relevant Service Information

Grob has issued Service Bulletin TM 817-35, dated July 20, 1992, which specifies procedures for inspecting the elevator and trim tab for water and to assure that the necessary drain holes are installed and that the existing drain holes are open. The service bulletin also specifies drilling any necessary drain holes and opening any existing drain holes that are closed; and, if a significant amount of water (more than 1/2 liter) is found in the elevator, assuring that the glider's residual momentum and C.G., are within the limits specified in the flight manual, and adjusting the residual momentum and C.G., as needed.

The LBA classified this service bulletin as mandatory and issued German AD 92-350 Grob, dated October 26, 1992, in order to assure the

continued airworthiness of these gliders in Germany.

The FAA's Determination

This glider model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Grob G 109B gliders of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require inspecting the elevator and trim tab for water and to assure that the necessary drain holes are installed and that the existing drain holes are open. The AD would also require drilling any necessary drain holes and opening any existing drain holes that are closed; and, if a significant amount of water (more than 1/2 liter) is found in the elevator, assuring that the glider's residual momentum and C.G. are within the limits specified in the flight manual, and adjusting the residual momentum and C.G., as needed. Accomplishment of the proposed actions would be in accordance with Grob Service Bulletin TM 817-35, dated July 20, 1992.

Cost Impact

The FAA estimates that 20 gliders in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per glider to accomplish the proposed inspection, and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed inspection on U.S. operators is estimated to be \$1,200, or \$60 per glider.

If drain holes need to be added, the FAA estimates that it would take approximately 1 workhour per glider to accomplish the proposed modification, and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed modification on U.S. operators

is estimated to be \$60 per glider that would need drain holes installed.

Compliance Time of the Proposed AD

The compliance time of the proposed AD is presented in calendar time instead of hours time-in-service (TIS). The unsafe condition is not a result of the number of times the glider is operated. If the elevator and trim tab of the affected gliders have inadequate drainage, then water could penetrate the elevator and trim tab on the first flight, as well as subsequent flights. The delamination and imbalance that could then occur can happen in a very short period of time or happen over a long period of time. For these reasons, the FAA has determined that a compliance based on calendar time should be utilized in this AD in order to assure that the unsafe condition is addressed on all gliders in a reasonable time period.

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 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) 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 has been placed 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 (AD) to read as follows:

Burkhart Grob Luft-und Raumfahrt GMBH:
Docket No. 98-CE-71-AD.

Applicability: Model G 109B gliders, all serial numbers beginning with 6200, certificated in any category.

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

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent water from penetrating the elevator and trim tab because of inadequate drainage, which could result in a delaminated elevator and trim tab structure with consequent elevator imbalance and sailplane flutter, accomplish the following:

(a) Within the next 6 calendar months after the effective date of this AD, inspect the elevator and trim tab for water and to assure that the necessary drain holes are installed and that the existing drain holes are open. Accomplish these actions in accordance with the Actions section of Grob Service Bulletin TM 817-35, dated July 20, 1992. Prior to further flight after the inspection, accomplish the following as specified in the service bulletin:

(1) Drill any necessary drain holes and open any existing drain holes that are closed; and,

(2) If a significant amount of water (more than 1/2 liter) is found in the elevator, assure that the glider's residual momentum and center of gravity (C.G.) are within the limits specified in the flight manual, and adjust the residual momentum and C.G. as needed.

(b) 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 glider to a location where the requirements of this AD can be accomplished.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be

forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to Grob Service Bulletin TM 817-35, dated July 20, 1992, should be directed to Burkhart Grob Luft-und Raumfahrt, D-8939 Mattsies, Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 3: The subject of this AD is addressed in German AD 92-350 Grob, dated October 26, 1992.

Issued in Kansas City, Missouri, on September 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24875 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-53-AD]

RIN 2120-AA64

Airworthiness Directives; EXTRA Flugzeugbau GmbH Models EA-300, EA-300S, and EA-300L Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain EXTRA Flugzeugbau GmbH (EXTRA) Models EA-300, EA-300S, and EA-300L airplanes. The proposed AD would require repetitively inspecting the rudder pedal for proper alignment, the safety control stop for wear and proper clearance, the rudder cables for elongation, and the rudder pedal footrest for cracks. The proposed AD would also require correcting or replacing any discrepant part, as applicable. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by the proposed AD are intended to prevent failure of the rudder pedal footrest caused by overloading the rudder pedal safety control stop, which could result

in loss of directional control of the airplane.

DATES: Comments must be received on or before October 16, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-53-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, D-46569 Hünxe, Federal Republic of Germany; telephone: (01 49 28 58) 91 37-13; facsimile: (01 49 28 58) 91 37-30. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut Street, suite 900, Kansas City, Missouri 64106; telephone: (816) 426-6934; facsimile: (816) 426-2169.

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 that summarizes 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-CE-53-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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-53-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain EXTRA Models EA-300, EA-300S, and EA-300L airplanes. The LBA advises that the rudder pedal footrest on one of the affected airplanes failed during flight.

Investigation shows that the rudder cable had stretched or elongated or that the rudder pedal system was misaligned. This allowed the rudder pedal to contact the rudder pedal second (safety) control stop (safety control stop). Continued contact with the rudder pedal safety control stop can eventually cause cracks in the rudder pedal footrest with consequent failure of the footrest. The purpose of the safety control stop is to protect the lower brake system in case of a rudder cable failure. The rudder pedal safety control stop should not be reached under normal operating conditions.

These conditions, if not corrected, could result in failure of the rudder pedal footrest and loss of rudder control with consequent loss of directional control of the airplane.

Relevant Service Information

EXTRA has issued Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998, which specifies procedures for the following:

- inspecting the rudder pedal alignment, and if not aligned properly, either re-rigging the rudder cables or replacing the rudder cables if alignment cannot be obtained (if the cables are elongated);
- inspecting the safety control stop for wear (rubbing, scrapes, etc.); and if the safety control stop is worn, replacing the safety control stop, and either re-rigging the rudder cables or replacing the rudder cable (if the cable is elongated);
- inspecting the safety control stop for proper clearance; and if the clearance does not meet the minimum specified clearance, re-rigging the rudder cable, replacing the rudder cable (if the cable is elongated), or replacing the safety control stop;
- inspecting the rudder pedal footrest flange in the area of the safety wire

hole for cracks, and if cracks are found, replacing the footrest.

The LBA classified this service bulletin as mandatory and issued German AD No. 95-443 EXTRA, dated November 29, 1995, in order to assure the continued airworthiness of these airplanes in Germany.

The FAA's Determination

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the LBA; reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other EXTRA Models EA-300, EA-300S, and EA-300L airplanes of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require repetitively inspecting the rudder pedal stop for wear and proper clearance, the rudder cable for proper alignment, and the rudder pedal footrest for cracks. The proposed AD also would require correcting or replacing any discrepant part, as applicable. Accomplishment of the proposed actions would be required in accordance with EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998.

Cost Impact

The FAA estimates that 15 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed inspections, and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be \$3,600, or \$240 per airplane. These figures do not take into account any corrective action that would be necessary after accomplishing the proposed inspections.

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 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) 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 has been placed 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 (AD) to read as follows:

Extra Flugzeugbau GMBH: Docket No. 98-CE-53-AD.

Applicability: The following models and serial numbers, certificated in any category:

Model	Serial No.
EA-300	All serial numbers, if factory equipped or retrofitted with the electric actuated rudder pedal adjustment that was produced prior to November 1995.
EA-300S ..	001 through 028.

Model	Serial No.
EA-300L ...	001 through 015.

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

1. Inspections specified in this AD are required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 50 hours TIS.

2. Replacements or other follow-on corrective actions specified in this AD are required prior to further flight after the inspection when the discrepancy was found.

To prevent failure of the rudder pedal footrest caused by overloading the rudder pedal safety control stop, which could result in loss of directional control of the airplane, accomplish the following:

(a) Inspect the rudder pedal alignment in accordance with Figure 1 and Figure 2 and the Instructions Part I.1 section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If not aligned, prior to further flight, accomplish one of the following, as applicable, in accordance with the service bulletin:

(1) Re-rig the rudder cables to attain proper alignment; or

(2) Replace the rudder cables if alignment cannot be attained.

(b) For all airplanes equipped at manufacture with a safety control stop

(See **Note 2** of this AD), inspect the safety control stop for wear (rubbing, scrapes, etc.) in accordance with the Instructions Part I.2 section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If the safety control stop is worn, prior to further flight, replace the safety control stop and accomplish one of the following, as applicable, in accordance with the service bulletin:

(1) Re-rig the rudder cable if elongation of the cable is not evident; or

(2) Replace the rudder cable if elongation of the cable is evident.

Note 2: The Model EA-300/S airplanes, serial numbers 001 through 011, were not factory equipped with a safety control stop.

(c) Inspect the footrest flange in the area of the safety wire hole for cracks in accordance with the Instructions Part I.3 section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If cracks are found, prior to further flight, replace the rudder pedal in accordance with instructions

obtained from the Small Airplane Directorate at the address specified in paragraph (g) of this AD.

(d) For all airplanes equipped at manufacture with a safety control stop (See **Note 2** of this AD), inspect the safety control stop clearance in accordance with the Instructions Part I.4 and Instructions Part II section of EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998. If the clearance does not meet the minimum specified clearance, prior to further flight, accomplish one of the following, as applicable, in accordance with the service bulletin:

(1) Adjust the foot rest to meet the required clearance if elongation of the cable is not evident; or

(2) Replace the rudder cable if elongation of the cable is evident.

(e) 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.

(f) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(g) Questions or technical information related to EXTRA Service Bulletin No. 300-3-95, Issue: B, dated May 12, 1998, should be directed to EXTRA Flugzeugbau GmbH, Flugplatz Dinslaken, D-46569 Hünxe, Federal Republic of Germany; telephone: (0 28 58) 91 37-00; facsimile: (0 28 58) 91 37-30. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in German AD No. 95-443 EXTRA, dated November 29, 1995.

Issued in Kansas City, Missouri, on September 9, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98-24874 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-NM-234-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300 series airplanes. This proposal would require modification of the emergency evacuation slide/raft system. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent the container release cable of the emergency evacuation slide/raft system from jamming, which could result in the inability to open the emergency exit doors or to correctly deploy the emergency evacuation slide/rafts, and consequent delay or impedance passengers exiting the airplane during an emergency.

DATES: Comments must be received by October 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 98-NM-234-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98-NM-234-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-234-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300 series airplanes. The DGAC advises that during an evacuation test of certain airplanes equipped with Air Cruisers emergency evacuation slide/rafts, the evacuation slide/rafts failed to deploy correctly. These failures were attributed to detachment of the slide/raft of the container release cable from the girt of the slide/raft due to excessive forces applied to the cable when it became jammed in a gap between adjoining components of the slide/raft system. Investigation revealed that the existing slide/raft system design may allow a gap to develop between the packboard and pinblock assembly in which the container release cable can

become jammed. Such jamming of the container release cable can result in the inability to open the emergency exit doors or to correctly deploy the emergency evacuation slide/rafts. These conditions, if not corrected, could impede or delay passengers from exiting the airplane during an emergency.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300-25-0465, dated October 31, 1997, which describes procedures for modification of the emergency evacuation slide/raft system. The modification includes the installation of reinforcement discs at both ends of the container release cable assembly, and the installation of retaining screws to secure the packboard skin to the pin block assembly. (Air Cruisers, the manufacturer of the emergency evacuation slide/raft system, has issued Service Bulletin S.B. 25-88, Revision 3, dated May 4, 1983, as an additional source of service information for accomplishment of the modification.) Accomplishment of the actions specified in the Airbus service bulletin is intended to adequately address the identified unsafe condition.

The DGAC classified the Airbus service bulletin as mandatory and issued French airworthiness directive 98-121-243(B), dated March 11, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the Airbus service bulletin described previously.

Cost Impact

The FAA estimates that 24 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed modification, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$1,200 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$37,440, or \$1,560 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 98–NM–234–AD.

Applicability: Model A300 series airplanes equipped with Air Cruisers emergency evacuation slide/rafts having part numbers (P/N) D30457–Series, serial numbers (S/N) 1001 through 2268 inclusive, or P/N D30477–Series, S/N 4001 through 4211 inclusive, on which the actions described in Air Cruisers Service Bulletin S.B. 25–88, Revision 3, dated May 4, 1983, have been not 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the container release cable of the emergency evacuation slide/raft system from jamming, which could result in the inability to open the emergency exit doors or to correctly deploy the emergency evacuation slide/rafts, and consequent delay or impedance passengers exiting the airplane during an emergency, accomplish the following:

(a) Within 36 months after the effective date of this AD, modify the emergency evacuation slide/raft system, in accordance with Airbus Service Bulletin A300–35–0465, dated October 31, 1997.

Note 2: The Airbus service bulletin references Air Cruisers Service Bulletin S.B. 25–88, Revision 3, dated May 4, 1983, as an additional source of service information for modifying the emergency evacuation slide/raft system.

(b) As of the effective date of this AD, no person shall install an evacuation slide/raft system having Air Cruisers P/N D30457–Series, S/N 1001 through 2268 inclusive, or P/N D30477–Series, S/N 4001 through 4211 inclusive, on any airplane, unless the slide/raft system has been modified in accordance with 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, International Branch, ANM–116, FAA,

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

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

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

Note 4: The subject of this AD is addressed in French airworthiness directive 98–121–243(B), dated March 11, 1998.

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–24873 Filed 9–16–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 96–NM–227–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD–11 series airplanes. This proposal would require inspections to detect attachment failures of the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap, and to detect cracking of the forward and aft flanges and bolt holes of the No. 4 banjo fitting; repair, if necessary; and replacement of the 12 attachments with new or serviceable parts. Such replacement would terminate the repetitive inspections. This proposal is prompted by a report indicating that attachment bolts on the forward and aft flanges of the No. 4 banjo fitting and the pylon carry-through cap failed due to fatigue cracking. The actions specified by the proposed AD are intended to prevent such cracking, which could result in

reduced controllability of the airplane during flight and ground operations.

DATES: Comments must be received by November 2, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 96–NM–227–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 The Boeing Company, Douglas Products Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: John L. Cecil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5229; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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 96-NM-227-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. 96-NM-227-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports indicating that attachment bolts on the forward and aft flanges of the No. 4 banjo fitting and the pylon carry-through cap had failed on McDonnell Douglas Model MD-11 series airplanes. Investigation revealed that the steel attachment bolts had failed due to fatigue cracking. In addition, another report indicated that a 20-mm long crack in the forward flange of the No. 4 banjo fitting of the lower vertical stabilizer also had been detected. That airplane had accumulated 4,949 flight cycles and had logged 24,282 flight hours.

Fatigue cracking of the attachment bolts of the No. 4 banjo fittings, if not detected and corrected in a timely manner, could cause cracking of the flanges; such cracking, if not prevented, could result in reduced controllability of the airplane during flight and ground operations.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas MD-11 Service Bulletin 55-13, dated December 22, 1992, and Revision 1, dated December 17, 1993; and McDonnell Douglas Service Bulletin MD-11-55-013, Revision 02, dated October 28, 1996, and Revision 03, dated May 15, 1998; which are described as follows:

- The original issue of the service bulletin describes procedures for replacement of the 12 attachment bolts located on the No. 4 banjo fitting/pylon carry-through cap with improved attachment bolts. These improved bolts are made from a higher strength and more corrosion resistant material. Replacement of the existing bolts with the improved bolts will minimize the possibility of attachment failures.

- Revision 1 of the service bulletin adds an eddy current inspection to detect cracking of both the forward and

aft flanges and of the bolt holes of the No. 4 banjo fitting, and replacement of the attachment bolts with a new or serviceable attachment bolts, if necessary. Revision 1 also adds airplanes to the effectivity of the original issue of the service bulletin.

- Revision 02 of the service bulletin adds procedures for repetitive visual inspections to detect any discrepancies of the 12 attachments bolts located on the No. 4 banjo fitting/pylon carry-through cap, and repair, if necessary.

- Revision 03 of the service bulletin specifies revised part numbers of second oversize Hi-Lok attachments. Revision 03 also specifies certain conditions for which additional work may or may not be necessary.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that the service bulletin specifies that the manufacturer may be contacted if holes require enlargement beyond certain specifications, or for an evaluation for deferment of certain repairs. However, this proposal would require disposition of those conditions to be accomplished in accordance with a method approved by the FAA.

Cost Impact

There are approximately 82 airplanes of the affected design in the worldwide fleet. The FAA estimates that 31 airplanes of U.S. registry would be affected by this proposed AD.

The FAA estimates that it would take approximately 1 work hour per airplane to accomplish the proposed external visual inspection, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$1,860, or \$60 per airplane, per inspection cycle.

The FAA estimates that it would take approximately 2 work hours per airplane to accomplish the proposed eddy current inspection, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact

of the proposed AD on U.S. operators is estimated to be \$3,720, or \$120 per airplane.

The FAA estimates that it would take approximately 6 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$250 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$18,910, or \$610 per airplane.

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

Regulatory Impact

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 96–NM–227–AD.

Applicability: Model MD–11 series airplanes; as listed in McDonnell Douglas Service Bulletin MD11–55–013, Revision 03, dated May 15, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the attachment bolts on the forward and aft flanges of the No. 4 banjo fitting and the pylon carry-through cap due to fatigue cracking, and consequent reduced controllability of the airplane during flight and ground operation, accomplish the following:

(a) Within 1,500 landings after the effective date of this AD, perform an external visual inspection for attachment failures of the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap, in accordance with McDonnell Douglas Service Bulletin MD11–55–013, Revision 02, dated October 28, 1996; or Revision 03, dated May 15, 1998.

(1) If no failed attachment is found, repeat the external visual inspection thereafter at intervals not to exceed 1,500 landings until the terminating action specified in paragraph (b) of this AD is accomplished.

(2) If any failed attachment is found, prior to further flight, accomplish the actions specified in paragraph (b) of this AD.

(b) Except as provided by paragraph (c) of this AD: Within 5 years after the effective date of this AD, perform an eddy inspection to detect cracking of the forward and aft flanges and bolt holes of the No. 4 banjo fitting, in accordance with McDonnell Douglas MD–11 Service Bulletin 55–13, Revision 1, dated December 17, 1993; or McDonnell Douglas Service Bulletin MD11–55–013, Revision 02, dated October 28, 1996; or McDonnell Douglas Service Bulletin MD11–55–013, Revision 03, dated May 15, 1998.

(1) If no cracking is found, within 5 years after the effective date of this AD, replace the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap with new or serviceable attachments in accordance with Revision 03 of the service bulletin. Such

replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(2) If any cracking is found, prior to further flight, repair the fitting, and replace the 12 attachments located on the No. 4 banjo fitting/pylon carry-through cap with new or serviceable attachments in accordance with Revision 03 of the service bulletin. Such replacement constitutes terminating for the repetitive inspections required by paragraph (a) of this AD.

(c) For airplanes on which McDonnell Douglas MD–11 Service Bulletin 55–13, dated December 22, 1992, has been accomplished, and on which no failed attachment was found during the inspection required by paragraph (a) of this AD: The eddy current bolt hole inspection specified in paragraph (b) of this AD is not required provided that all 12 attachments have been replaced in accordance with the original issue of the service bulletin.

(d) If the service bulletin specifies that the manufacturer may be contacted for disposition of enlargement of holes beyond the specifications of the service bulletin, or for an evaluation for deferment of repairs: Those conditions shall be addressed in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

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

Issued in Renton, Washington, on September 10, 1998.

Dorenda D. Baker,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–24869 Filed 9–16–98; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 34 and 35

Concept Release Concerning Over-the-Counter Derivatives

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of comment period on Concept Release.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission (Commission) issued a Concept Release concerning over-the-counter derivatives on May 12, 1998 (63 FR 26114). Comments on the Concept Release were originally due on July 13, 1998, but the Commission extended the deadline until September 11, 1998 in response to a request for an extension from the Chicago Mercantile Exchange, the Futures Industry Association, and the Managed Futures Association. See 63 FR 34335 (June 24, 1998). In response to a new request by the Futures Industry Association, the Commission has determined to extend the comment period for an additional 30 days. The extended deadline for comments on the Concept Release is October 13, 1998.

Any person interested in submitting comments on the Concept Release should submit them by the specified date to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov.

DATES: Comments must be received on or before October 13, 1998.

FOR FURTHER INFORMATION CONTACT: John Lawton, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington DC 20581. Telephone (202) 418–5430.

Issued in Washington, DC, on September 11, 1998 by the Commodity Futures Trading Commission.

Jean Webb,

Secretary of the Commission.

Remarks of Commissioner Barbara Pedersen Holum

Concurring in Part and Dissenting in Part

Federal Register Release Extending the Comment Period on the Concept Release Concerning Over-the-Counter Derivatives

I concur in the Commission decision to extend the comment period on the OTC Derivatives Concept Release, but dissent from the short 30-day extension in favor of a 384-day extension to September 30, 1999.

The Futures Industry Association (FIA) requested a 30-day extension of the comment period. However, John Damgard, President of FIA, was very supportive of the proposed 384-day extension for the comment period.

Extension of the subject comment period for 384 days could effectively preserve the status quo and, therefore, provide the standstill sought by the Congress and the industry until the comment period closes. The proposed comment period and 384 days would terminate on September 30, 1999, in

conformity with standstill legislation proposed by House Agriculture Committee Chairman Smith. This seriatim action will most likely be the final opportunity for the Commission to achieve a regulatory moratorium, in light of the Chairperson's refusal to provide the Commission with an opportunity to vote on this important public policy issue.

Extension of the comment period for a longer period is necessary to avoid the need for emergency legislation and to reassure the markets that the legal status of swap and hybrid transactions will not change without Congressional action.

Dated: September 11, 1998.

Barbara Pedersen Holum,
Commissioner.

[FR Doc. 98-24890 Filed 9-16-98; 8:45 am]

BILLING CODE 6351-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 201

[USAID Regulation 1]

RIN 0412-AA-34

Rules and Procedures Applicable to Commodity Transactions Financed by USAID: Inspection and Price Provisions

AGENCY: U.S. Agency for International Development, IDCA.

ACTION: Proposed rule withdrawn.

SUMMARY: The U.S. Agency for International Development (USAID) published a proposed rule in the **Federal Register** on August 8, 1997 (62 FR 42712). The proposed rule explained that USAID planned to change the procedure used to assure that prices paid to suppliers for transactions financed under Commodity Import Programs (CIPs) are fair and reasonable by implementing a pre-shipment review process managed from USAID/Washington. USAID has instead decided that its Mission in Egypt will manage all aspects of the CIP since the only remaining program is in Egypt. The Mission in Egypt does not plan to implement a pre-shipment review program; therefore, the proposed rule is being withdrawn.

FOR FURTHER INFORMATION CONTACT:
Kathleen J. O'Hara, (202) 712-0610.

Dated: September 4, 1998.

Marcus L. Stevenson,
Procurement Executive.

[FR Doc. 98-24879 Filed 9-16-98; 8:45 am]

BILLING CODE 6116-71-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-164, RM-9357]

Radio Broadcasting Services; Linn, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by R. Lee and Sarah H. Wheeler, proposing the allotment of Channel 276A to Linn, Missouri, as that community's first local broadcast service. The channel can be allotted to Linn without a site restriction at coordinates 38-29-06 and 91-51-06.

DATES: Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John M. Pelkey, Haley Bader & Potts, P.L.C., 4350 North Fairfax Drive, Suite 900, Arlington, VA 22203-1633.

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. 98-164, adopted September 2, 1998, and released September 11, 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. 98-24984 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-162, RM-9263]

Radio Broadcasting Services; Sugar Hill and Toccoa, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Southern Broadcasting of Pensacola, Inc., seeking the substitution of Channel 291C1 for Channel 291C at Toccoa, GA, the reallocation of Channel 291C1 from Toccoa to Sugar Hill, GA, and the modification of Station WSTE-FM's license accordingly. The Commission requests comments on whether pre-1964 stations grandfathered short-spaced stations and pre-1989 grandfathered short-spaced Class A stations should be allowed to change their community of license where there is no change in their presently licensed technical facilities. Channel 291C1 can be allotted to Sugar Hill with a site restriction of 45.7 kilometers (28.4 miles) northeast, at coordinates 34-22-41 NL; 83-39-30 WL. This site, which is the transmitter site specified in Station WSTE-FM's outstanding construction permit (BPH-970325IC), will maintain the present grandfathered short-spacing to Station WYAY, Channel 294C, Gainesville, GA.

DATES: Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Smithwick & Belendiuk, P.C., 1990 M Street, N.W., Suite 510, Washington, D.C. 20036 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of

Proposed Rule Making, MM Docket No. 98-162, adopted September 2, 1998, and released September 11, 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.

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* contacts.

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. 98-24982 Filed 9-16-98; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-158, RM-9342]

Radio Broadcasting Services; Grants and Peralta, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Educational Media Foundation ("petitioner"), permittee of noncommercial educational Station KQLV, Channel 288C, Grants, NM, requesting the substitution of Channel 288C1 for Channel 288C at Grants, the reallocation of Channel 288C1 to Peralta, NM, as the community's first local aural service, the modification of Station KQLV's permit to specify Peralta as its community of license and the allotment of Channel 244C3 to Grants as its fourth local FM service. Channel 288C1 can be

allotted to Peralta in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.3 kilometers (7.6 miles) west, at coordinates 34-47-55 NL; 106-48-59, to accommodate petitioner's desired transmitter site. Channel 244C3 can be allotted to Grants without the imposition of a site restriction, at coordinates 35-09-06; 107-51-36.

DATES: Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert C. Fisher, Veronica D. McLaughlin, Fisher Wayland Cooper Leader & Zaragoza L.L.P., 2001 Pennsylvania Avenue, NW, Suite 400, Washington, DC 20006-1851 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98-158, adopted September 2, 1998, and released September 11, 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.

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* contacts.

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. 98-24981 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98-165, RM-9322]

Radio Broadcasting Services; Refugio, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by WAB Broadcasting, proposing the allotment of Channel 263A to Refugio, Texas. The channel can be allotted to Refugio with a site restriction 5 kilometers (3.1 miles) north of the community. The coordinates for Channel 263A are 28-21-00 and 97-16-30. Concurrence of the Mexican government will be requested for this allotment.

DATES: Comments must be filed on or before November 2, 1998, and reply comments on or before November 17, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Lawrence Roberts, Davis Wright Tremaine LLP, 1155 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20036.

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. 98-165, adopted September 2, 1998, and released September 11, 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. 98-24979 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-204; RM-8876, RM-9015]

Radio Broadcasting Services; Martin, Tiptonville, and Trenton, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of petition.

SUMMARY: The Commission denies the petition for rule making filed by Thunderbolt Broadcasting Company proposing the substitution of Channel 267C3 for Channel 269A at Martin, Tennessee. To accommodate the upgrade, petitioner also proposed the deletion of vacant Channel 267C3 at Tiptonville, Tennessee (RM-8876). See 61 FR 53698, October 15, 1996. Additionally, we deny petitioner's alternative proposal seeking the substitution of Channel 267C3 for Channel 269A at Martin, Tennessee; the substitution of Channel 247A for Channel 267C3 at Tiptonville; and the substitution of Channel 249C3 for Channel 248C3 at Trenton, Tennessee (RM-9015). At the request of Joe Myers

Productions, Inc., we dismiss its proposal to allot Channel 267A at Princeton, Kentucky. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96-204, adopted September 2, 1998, and released September 11, 1998. The full text of this Commission decision is available for inspection and copying during 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 contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

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. 98-24983 Filed 9-16-98; 8:45 am]

BILLING CODE 6712-01-P

Notices

Federal Register

Vol. 63, No. 180

Thursday, September 17, 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

Food Safety and Inspection Service

[Docket No. 98-043N]

Meeting on Risk Analysis for Bovine Spongiform Encephalopathy (BSE) in the United States

AGENCY: Food Safety and Inspection Service; Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) and the Animal and Plant Health Inspection Service (APHIS) are announcing that they will hold a public meeting to assess Department of Agriculture (USDA) measures to prevent Bovine Spongiform Encephalopathy (BSE) from entering the United States and endangering the U.S. food supply. On April 24, 1998, USDA entered into a cooperative agreement with Harvard University's School of Public Health to conduct a risk analysis to assess the potential pathways for entry into U.S. cattle and the U.S. food supply, to evaluate existing regulations and policies, and to identify any additional measures that could be taken to protect human and animal health. This meeting will provide an opportunity for public input and a chance to comment on the scope of the BSE risk analysis project.

DATES: The meeting will be held from 9:30 a.m. to 12:30 p.m. on September 28, 1998.

ADDRESSES: The September 28 meeting will be held at the National Rural Electric Cooperative Association, 4301 Wilson Boulevard, Arlington, VA 22203-1850; telephone (703) 907-5500. To register for the meeting, contact Ms. Jennifer Callahan by telephone at (202) 501-7251 or by FAX at (202) 501-7642. If a sign language interpreter or other special accommodation is needed, contact Ms. Callahan at the above

numbers by September 21, 1998. Persons wishing to present technical data at the public meeting are asked to bring 100 copies of their data for distribution to participants in the meeting and to submit one original and two copies of the data to the FSIS Docket Clerk, Room 102, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250-3700. All other written comments should be submitted to the FSIS Docket Clerk at the above address.

FOR ADDITIONAL INFORMATION CONTACT: Dr. Ruth Etzel, Director, Epidemiology and Risk Assessment Division, Office of Public Health and Science, at (202) 501-7472 or by FAX at (202) 501-6982.

SUPPLEMENTARY INFORMATION: BSE is a progressive neurological disorder of cattle that results from infection by an unknown transmissible agent. Although the nature of the transmissible agent is unknown, a theory which has gained increasing acceptance is that the agent is a modified form of a normal cell surface component known as the prion protein, a pathogenic form of the protein that is less soluble and more resistant to enzyme degradation than the normal form. Two other theories are the virus and virino theories.

From 1986 to 1998, an estimated 171,000 head of cattle were diagnosed with BSE in Great Britain. The epidemic may have resulted from the feeding of scrapie-containing sheep meat-and-bone meal to cattle, but most likely was amplified by feeding rendered bovine meat-and-bone meal back to cattle. Several other European countries have reported indigenous cases of BSE.

No cases of BSE have been diagnosed in the United States. The USDA BSE Working Group has taken aggressive measures to prevent BSE from entering the U.S. over the last 10 years. These measures include the 1989 ban of cattle and cattle products from countries where BSE has been reported and active inspection, testing, and education programs targeted toward preventing the entry of suspect animals and animal products into this country. USDA cooperates with other government agencies in carrying out this mission. The information developed through the risk analysis will be used to refine USDA's regulatory activities.

Done in Washington, DC, on September 11, 1998.

Thomas J. Billy,
Administrator.

[FR Doc. 98-24888 Filed 9-15-98; 8:45 am]

BILLING CODE 6351-01-M

CENSUS MONITORING BOARD

Meeting

AGENCY: U.S. Census Monitoring Board.

ACTION: Notice of Cancellation of Public Hearing.

SUMMARY: This notice hereby cancels the Sept. 18 public hearing of the U.S. Census Monitoring Board. The original hearing notice was published on Sept. 10, 1998 in the **Federal Register** (FR Doc. 98-24258) Vol. 63, No. 175 (63 FR 48467). The hearing will be rescheduled in the near future.

FOR MORE INFORMATION CONTACT: Carrie Hyun, Communications Director, Presidential Members, U.S. Census Monitoring Board, Phone 301/457-9903 or Michael Miguel, Press Secretary, Congressional Members, U.S. Census Monitoring Board, Phone 301/457-5080.

Mark R. Johnson,

Executive Director, Presidential Members.

[FR Doc. 98-24988 Filed 9-14-98; 4:47 pm]

BILLING CODE 1179-00-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oklahoma 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 Oklahoma Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:00 p.m. on September 29, 1998, at the Clarion/Comfort Inn Conference Center, 4345 North Lincoln Boulevard, Oklahoma City, Oklahoma 74105. The purpose of the meeting is to collect pertinent information from school district officials and the community on student discipline and students exempt from taking the Iowa Test of Basic Skills.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the

Central Regional Office, 913-551-1400 (TDD 913-551-1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 9, 1998.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit
[FR Doc. 98-24920 Filed 9-16-98; 8:45 am]

BILLING CODE 6335-01-F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania 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 Pennsylvania Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 5:00 p.m. on October 26, 1998, at the Pennsylvania Convention Center, Administrative Level Board Room, 12th and Arch Streets, Philadelphia, Pennsylvania 19107. The purpose of the meeting is for the Committee to complete its project planning for a future consultation on barriers confronting women and minority business owners.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 9, 1998.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit
[FR Doc. 98-24919 Filed 9-16-98; 8:45 am]

BILLING CODE 6335-01-F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Texas 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 Texas Advisory Committee to the Commission will convene at 3:00 p.m. and adjourn at 5:00 p.m. on October 1, 1998, at the Ramada Hotel-Market Center, 1055 Regal Row, Dallas, Texas, 75247. The purpose of the meeting is to conduct a hate crimes community workshop at the Texas NAACP conference.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213-894-3437 (TDD 213-894-3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 9, 1998.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit
[FR Doc. 98-24921 Filed 9-16-98; 8:45 am]

BILLING CODE 6335-01-F

DEPARTMENT OF COMMERCE

International Trade Administration

[A-301-602]

Certain Fresh Cut Flowers From Colombia: Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is rescinding this administrative review with respect to ten groups of companies based upon a withdrawal of the request for review by the interested parties who requested reviews of these companies.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Rosa Jeong or Marian Wells, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3853 or 482-6309, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). All citations to the Department of Commerce's regulations are references to the provisions codified at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

On April 21, 1998, the Department of Commerce ("the Department") published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on fresh cut flowers from Colombia, covering the period March 1, 1997 through February 28, 1998 (61 FR 66017) based upon a request by certain exporters/producers of the subject merchandise and the domestic interested party in this proceeding.

On June 29, 1998, we received timely requests for rescission of the review from the Floral Trade Council, the domestic interested party, for the following groups of companies: Agrodex Group ("Agrodex"), Caicedo (CAICO) Group ("Caicedo"), Claveles Colombianos Group ("Clavecol"), Cultivos Miramonte Group ("Miramonte"), Floraterra Group ("Floraterra"), Florex Group ("Florex"), Funza Group ("Funza"), Guacatay Group ("Guacatay"), HOSA Group ("HOSA"), Maxima Group ("Maxima"), Papagayo Group ("Papagayo"), and Queens Group ("Queens"). On June 30, 1998, we received timely requests for rescission of the review from Clavecol, Floraterra, Funza, Guacatay, Papagayo and Queens. On July 8, 1998, Agrodex also withdrew its review request.

Therefore, in accordance with section 355.213(d)(1) of the Department's regulations, we are rescinding this administrative review with respect to Agrodex, Clavecol, Miramonte, Floraterra, Florex, Funza, Guacatay, HOSA, Papagayo and Queens, because these companies, along with the domestic interested party, have filed timely requests for withdrawal and no other interested party requested that they be reviewed. The cash deposit rates for these companies will continue to be the rates established for them in the most recently completed final results. We are not rescinding this review with respect to Caicedo and Maxima because these companies have not withdrawn their requests for review.

Rescissions

The following is the complete list of companies for which this review has been rescinded.

Agrodex Group

Agricola de las Mercedes S.A.
Agricola el Retiro Ltda.
Agrodex Ltda.
Degaflores Ltda.
Flores Camino Real Ltda.
Flores Cuatro Esquinas Ltda.
Flores de la Comuna Ltda.
Flores de Los Amigos Ltda.
Flores de los Arrayanes Ltda.
Flores de Mayo Ltda.
Flores del Gallinero Ltda.
Flores del Potrero Ltda.
Flores dos Hectareas Ltda.
Flores de Pueblo Viejo Ltda.
Flores el Trentino Ltda.
Flores la Conejera Ltda.
Flores Manare Ltda.
Florinda Ltda.
Horticola el Triunfo Ltda.
Horticola Montecarlo Ltd

Claveles Colombianos Group

Claveles Colombianos Ltda.
Elegant Flowers Ltda.
Fantasia Flowers Ltda.
Splendid Flowers Ltda.
Sun Flowers Ltda.

Cultivos Miramonte Group

C.I. Colombiana de Bouquets S.A.
Cultivos Miramonte S.A.
Flores Mocari S.A.

Floraterra Group

Floraterra S.A.
Flores Casablanca S.A.
Flores Novaterra Ltda.
Flores San Mateo S.A.
Siete Flores S.A.

Florex Group

Agricola Guacari S.A.
Agricola el Castillo
Flores San Joaquin
Flores Altamira S.A.
Flores de Exportacion S.A.
Flores Primavera S.A.

Funza Group

Flores Alborada
Flores de Funza S.A.
Flores del Bosque Ltda.

Guacatay Group

Agricola Cunday S.A.
Agricola Guacatay S.A.
Agricola Ventura
Jardines Bacata Ltda.
Multiflora Comercializadora Internacional S.A.

Hosa Group

Horticultura de la Sabana S.A.
HOSA Ltda.
Innovacion Andina S.A.
Minispray S.A.
Prohosa Ltda.

Papagayo Group

Agricola Papagayo Ltda.

Inversiones Calypso S.A.

Queens Flowers Group

Agroindustrial del Rio Frio
Cultivos General Ltda.
Flora Nova
Flora Atlas Ltda.
Flores Calima S.A.
Flores Canelon Ltda.
Flores de Bojaca
Flores del Cacique
Flores del Hato
Flores el Aljibe Ltda.
Flores el Cipres
Flores El Pino Ltda.
Flores el Tandil
Flores la Mana
Flores las Acacias Ltda.
Flores la Valvanera Ltda.
Flores Jayvana
Flores Ubate Ltda.
Jardines de Chia Ltda.
Jardines Fredonia Ltda.
M.G. Consultores Ltda.
Mountain Roses
Queens Flowers de Colombia Ltda.
Quality Flowers S.A.
Florval S.A. (Floval)
Jardines del Rosal

This notice is in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: September 11, 1998.

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 98-24960 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-122-503]

Iron Construction Castings From Canada: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order.

SUMMARY: In response to the April 30, 1998 request by the Municipal Castings Fair Trade Council, the petitioner in this case, the Department of Commerce (the Department) simultaneously initiated a changed circumstances antidumping duty administrative review and issued the preliminary results of this review expressing an intent to revoke, in part, the antidumping duty order on iron construction castings from Canada. The

scope of the order currently includes valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water and gas meters, which are considered light castings. We are now revoking that portion of the order relating to light castings, based on the fact that this portion of the order is no longer of interest to domestic parties.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Wendy Frankel, AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-5346/5849, respectively.

SUPPLEMENTARY INFORMATION:**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

On April 30, 1998, the Municipal Castings Fair Trade Council (the petitioner), requested that the Department revoke, in part, the antidumping duty order with respect to light iron construction castings based on its lack of further interest. We preliminary determined that petitioner's affirmative statement of no interest constituted good cause for conducting a changed circumstances review. Consequently, on July 8, 1998, the Department published a notice of initiation and preliminary results of changed circumstances antidumping duty administrative review to determine whether to revoke this order in part (63 FR 6876). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. We received no comments.

Scope of the Order

The merchandise covered by the order consists of certain iron construction castings from Canada, limited to manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy

castings under Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010 and 7325.10.0050; and to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water and gas meters, classifiable as light castings under HTS item numbers 8306.29.0000 and 8310.00.0000. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

Scope of the Changed Circumstances Administrative Review

Imports covered by this changed circumstances administrative review are shipments of light castings from Canada, as described above.

Final Results of Changed Circumstances Review; Partial Revocation of Antidumping Duty Order

The affirmative statement of no interest by the petitioner constitutes changed circumstances sufficient to warrant partial revocation of this order. Therefore, the Department is partially revoking the order on iron constructions castings from Canada, with regard to light castings, in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.222(g)(1)(i). This partial revocation applies to all entries of light iron construction castings entered, or withdrawn from warehouse, for consumption on or after March 1, 1997.

New Scope of the Order

The merchandise covered by the order consists of certain iron construction castings from Canada, limited to manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010 and 7325.10.0050. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

Ending of Suspension of Liquidation

The Department will instruct the U.S. Customs Service to end the suspension of liquidation of light iron construction castings subject to this changed circumstances review on the effective date of this notice, and to refund any estimated antidumping duties collected, for all unliquidated entries of such merchandise made on or after March 1, 1997. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act.

This notice is in accordance with sections 751(b) and 777(i)(1) of the Act (19 U.S.C. 1675(b) and 1677f(i)(1)), and 19 CFR 351.216, 351.221, and 351.222.

Dated: August 20, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98-24961 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DS-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Bulgaria

September 14, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 17, 1998.

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 or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover and carryforward.

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 62564, published on November 24, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 14, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile products, produced or manufactured in Bulgaria and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on September 17, 1998, you are directed to adjust the current limits for the following categories, as provided for in the agreement between the Governments of the United States and Bulgaria:

Category	Adjusted twelve-month limit ¹
433	14,087 dozen.
435	24,448 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1997.

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98-24963 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

September 11, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854);

Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryover, carryforward and recrediting unused carryforward.

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 67834, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 11, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the period January 1, 1998 through December 31, 1998.

Effective on September 17, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
Sublevels within Fabric Group	
619	5,320,516 square meters.
620	6,419,698 square meters.
Other specific limits	
336/636	485,387 dozen.
338/339	1,161,688 dozen.
347/348	652,799 dozen.
445/446	35,242 dozen.
645/646	363,916 dozen.
647/648	1,721,282 dozen of which not more than 1,258,445 dozen shall be in Category 647-K ² and not more than 1,258,445 dozen shall be in Category 648-K ³ .

¹ The limits have not been adjusted to account for any imports exported after December 31, 1997.

² Category 647-K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.9044.

³ Category 648-K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2006, 6104.63.2011, 6104.63.2026, 6104.63.2028, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98-24964 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

September 11, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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 or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift, and carryover.

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 67837, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 11, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998.

Effective on September 17, 1998, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement:

Category	Adjusted twelve-month limit ¹
Sublevel in Group I	
363	12,931,701 numbers.
Group II	
237, 239, 330-332, 333/334/335, 336, 338/339, 340-345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359-C/659-C ² , 359-H/659-H ³ , 359-O ⁴ , 431-444, 445/446, 447/448, 459, 630-632, 633/634/635, 636, 638/639, 640, 641-644, 645/646, 647/648, 649, 651, 653, 654, 659-S ⁵ , 659-O ⁶ , 831-844, and 846-859, as a group.	733,897,492 square meters equivalent.
Sublevels in Group II	
239	5,970,410 kilograms.
331	498,266 dozen pairs.
336	136,243 dozen.
345	124,758 dozen.
352/652	3,045,680 dozen.
359-H/659-H	5,083,148 kilograms.
433	14,217 dozen.
435	25,159 dozen.
438	29,638 dozen.
442	42,233 dozen.
443	54,822 numbers.
444	80,719 numbers.

Category	Adjusted twelve-month limit ¹
631	5,247,940 dozen pairs.
633/634/635	1,655,026 dozen of which not more than 966,766 dozen shall be in Categories 633/634 and not more than 862,820 dozen shall be in Category 635.
638/639	6,567,352 dozen.
642	840,251 dozen.
Group II Subgroup	
333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	76,796,124 square meters equivalent.
Within Group II Subgroup	
342	227,249 dozen.
350/650	136,712 dozen.
351	365,403 dozen.
447/448	20,983 dozen.
636	396,605 dozen.
651	490,340 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1997.

² Category 359-C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

³ Category 359-H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

⁴ Category 359-O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359-C); 6505.90.1540 and 6505.90.2060 (Category 359-H).

⁵ Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

⁶ Category 659-O all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659-C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659-S).

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98-24965 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission of OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Reimbursement Information, Psychiatric Residential Treatment Centers Serving Children and Adolescents; TMA Form 771; OMB Number 0704-0295.

Type of Request: Reinstatement.

Number of Respondents: 20.

Responses per Respondent: 1.

Annual Responses: 20.

Average Burden per Response: 12 hours.

Annual Burden Hours: 240.

Needs and Uses: Respondents are psychiatric residential treatment centers (RTCs) seeking certification under the TRICARE program to provide needed services to eligible children and adolescents. The data collection instrument, i.e., TRICARE Form 771, will collect the necessary reimbursement information that will be used in calculating prospective all-inclusive per diem rates for new RTCs under the TRICARE program. Based on current trends, it is estimated that about 20 forms will be completed and submitted to the TRICARE program per fiscal year for RTCs seeking certification under the program.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: One-Time.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Allison Eydt.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DoD Health Affairs, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: September 11, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98-24910 Filed 9-16-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Meeting: With the Community College of the Air Force Board of Visitors To Review and Discuss Academic Policies and Issues Relative to the Operation of the College

AGENCY: Community College of the Air Force.

ACTION: Notice of meeting.

SUMMARY: The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting to review and discuss academic policies and issues relative to the operation of the college. Agenda items include a review of the operations of the CCAF and an update on the activities of the CCAF Policy Council.

Members of the public who wish to make oral or written statements at the meeting should contact First Lieutenant Cornel Taite, Designated Federal Officer for the Board, at the address below no later than 4:00 p.m. on October 22, 1998. Please mail or electronically mail all requests. Telephone requests will not be honored. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of the presentation materials must be given to First Lieutenant Cornel Taite no later than three days prior to the time of the board meeting for distribution. Visual aids must be submitted to First Lieutenant Cornel Taite on a 3½" computer disc in Microsoft PowerPoint format no later than 4:00 p.m. on October 22, 1998 to allow sufficient time for virus scanning and formatting of the slides.

DATES: The meeting will be held on Friday, November 6, 1998 at 8:00 a.m. in Vosler Academic Hall, 601 D St., Keesler Air Force Base MS 39534.

FOR FURTHER INFORMATION CONTACT: First Lieutenant Cornel Taite, (334) 953-7322, Community College of the Air Force, 130 West Maxwell Boulevard,

Maxwell Air Force Base, Alabama, 36112-6613, or through electronic mail at cotaite@max1.au.af.mil.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98-24929 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The S&T Special Programs Meeting in support of the HQ USAF Scientific Advisory Board will meet at Wright-Patterson Air Force Base, OH, on October 21-23, 1998 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to review the quality of the Air Force S&T Programs.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697-8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 98-24926 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The S&T Space Vehicle Meeting in support of the HQ USAF Scientific Advisory Board will meet at Kirtland, Air Force Base, NM, and Hanscom Air Force Base, MA, on November 9-13, 1998 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to review the quality of the Air Force S&T Programs.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697-8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 98-24927 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The S&T Sensors Panel Meeting in support of the HQ USAF Scientific Advisory Board will meet at Wright-Patterson Air Force Base, OH, on November 16-20, 1998 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to review the quality of the Air Force S&T Programs.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697-8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 98-24928 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Grant an Exclusive License to Defense Technology Corporation of American

AGENCY: U.S. Army Research Laboratory.

ACTION: Notice of Intent.

SUMMARY: In compliance with 37 CFR 404 et seq., the Department of the Army hereby gives notice of its intent to grant to Defense Technology Corporation of America, a corporation having its principle place of business at 9125 Neosho Road, Casper, WY, 82604, an exclusive license relative to an ARL patent application concerning a less-lethal munition. Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence if any.

FOR FURTHER INFORMATION CONTACT: Micheal D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATT: AMSRL-CS-TT/Bldg. 433, Aberdeen Proving Ground, Maryland 21005-5425, Telephone, (410) 278-5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98-24883 Filed 9-16-98; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent Application Serial No. 09/038,925 entitled "System for Eliminating or Reducing Exemplar Noise Effects (Serene)" Navy Case No. 78,735.

ADDRESSES: Requests for copies of the patent application cited should be directed to the Naval Research Laboratory, Code 3008.2, 4555 Overlook Avenue, SW, Washington, DC 20375-5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Dr. Richard H. Rein, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375-5320, telephone (202) 767-7230.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: September 9, 1998.

Ralph W. Corey,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98-24931 Filed 9-16-98; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Naval Research Advisory Committee

AGENCY: Department of the Navy, DOD.

ACTION: Notice of meeting.

SUMMARY: The Naval Research Advisory Committee (NRAC) Panel on Global Positioning System (GPS) Vulnerability and Alternatives will meet to examine the vulnerabilities of the GPS on Navy and Marine Corps platforms and weapons systems. All sessions of the meeting will be devoted to briefings, discussions, and technical examination of information related to GPS vulnerabilities; the Department of the Navy's mitigation plans for platforms, weapons, communications, and intelligence systems as related to the projected threat; GPS modernization; and research, development, test, acquisition, and training activities to

improve GPS-related military readiness and precision navigation capabilities. All sessions of the meeting will be closed to the public.

DATES: The meeting will be held on Tuesday, September 22, from 8:00 a.m. to 5:00 p.m.; Wednesday, September 23, from 8:00 a.m. to 5:00 p.m.; and Thursday, September 24, 1998, from 8:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia, on September 22 and 23, 1998. On September 24, 1998, the meeting will be held at the DCS Corporation, 1225 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Diane Mason-Muir, Program Director, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217-5660, telephone number: (703) 696-6769.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meeting will be devoted to briefings and discussions involving technical examination of information related to vulnerabilities and deficiencies of the GPS on Navy and Marine Corps platforms and weapons systems. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. section 552b(c)(1). Due to unavoidable delay in the administrative process of preparing for this meeting, the normal 15 day notice could not be provided.

Dated: September 10, 1998.

Ralph W. Corey,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 98-24930 Filed 9-16-98; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Industry Advisory Board (IAB) to the International Energy Agency will be held on September 25, 1998, at the IEA's headquarters in Paris, France 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.

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 September 25, 1998, at the headquarters of the IEA, 9, rue de la Fédération, 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 headquarters on September 25, including a preparatory encounter among company representatives from approximately 8:45 a.m. to 9:30 a.m. The agenda for the preparatory encounter among company representatives is to elicit views regarding items on the agenda for the SEQ meeting. The SEQ's agenda is under the control of the SEQ. It is expected the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of Summary Record of the 92nd Meeting
3. Policy and Legislative Developments in Member Countries
 - U.S. Energy Policy and Conservation Act
4. Current IAB Activities
5. The 1998 SEQ Work Program
 - Preparations for Emergency Response Exercise 1998
 - Update on use of internet for SEQ documents and communications
 - IAB recommendations on the exercise
 - Emergency Reference Guide

- Emergency Management Manual
6. The 1999 SEQ Work Program
 - Seminar on Emergency Reserve Issues 1999
 7. Transport Sector Oil Security Issues and Prospects
 - Road vehicles for the future
 8. World Energy Outlook Update
 9. Implications of Global Spare Production Capacity for Emergency Response
 10. Emergency Reserve Situation of IEA Countries
 - Emergency reserve and net import situation of IEA countries on April 1, 1998 and July 1, 1998
 - Emergency reserve situation of IEA candidate countries
 11. Emergency Data System and Related Questions
 - Base Period Final Consumption—Q197-Q497
 - Monthly Oil Statistics (MOS) April 1998
 - MOS May 1998
 - MOS June 1998
 - Quarterly Oil Forecast—Q498
 12. Membership Criteria for IEA Candidate Countries
 - Applications for IEA Membership: status and prospects
 13. Workshop in Brazil on Enhancing Oil Sector Energy Security
 14. Treatment of Petroleum Coke for IEA Emergency Reserve Purposes—Proposal by the Spanish Administration
 15. IEA Medium-Term Financial Plan
 16. Updated Schedule of Emergency Response Reviews
 - Progress report of the review program

As authorized by 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., September 11, 1998.

Mary Anne Sullivan,
General Counsel.

[FR Doc. 98-24956 Filed 9-16-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Notice of Revised Draft Request for Proposals for Waste Acceptance and Transportation Services**

AGENCY: Office of Civilian Radioactive Waste Management U.S. Department of Energy.

ACTION: Notice of availability of revised draft request for proposals.

SUMMARY: This Notice announces the availability, within the next two weeks, of a revised draft Request for Proposals (RFP), concerning the acquisition of commercial spent nuclear fuel acceptance and transportation services. The draft RFP was revised to reflect current Office of Civilian Radioactive Waste Management (OCRWM) program plans, and to address a number of comments received from industry, utilities and other interested parties based on the draft RFP dated November 24, 1997.

ADDRESSES: The revised draft will be available on the OCRWM Home Page at the INTERNET address <http://www.rw.doe.gov/>.

FOR FURTHER INFORMATION CONTACT: Contracting Officer (HR-542), U.S. Dept. of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585

SUPPLEMENTARY INFORMATION: OCRWM is responsible under NHPA, for accepting and transporting spent nuclear fuel (SNF) from commercial nuclear reactor sites to a federal facility for ultimate disposal. The Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (10 CFR part 961) details the arrangements between the Department of Energy (DOE) and the owners and generators of SNF (Purchasers) for the Department to accept the SNF at the Purchasers' sites for transport to a federal facility. Section 137(a)(2) of the NHPA requires the utilization of private industry to the "fullest extent possible" in the transportation of SNF.

In May 1996, OCRWM published in the **Federal Register** (61 FR 26508) and the *Commerce Business Daily*, a Request for Expression of Interest and Comments on a previous draft Statement of Work for these services. In July 1996, comments were received from interested parties at a presolicitation conference. In December 1996, OCRWM issued a draft RFP that requested comments on all aspects of its proposed contracting approach embodied in that draft document. In February 1997, OCRWM held another presolicitation conference to receive additional comments and questions on the first draft RFP. In December 1997, OCRWM published in

the **Federal Register** (62 FR 63700) and the *Commerce Business Daily* a Request for Comments on a revised draft RFP. Comments were received, reviewed and many were incorporated into the version noticed herein.

The revised draft RFP noticed herein conforms to the plans and schedules in the recently released OCRWM Program Plan (Civilian Radioactive Waste Management Program Plan, Rev. 2, July 1998, DOE/RW-0504). Under current plans, a licensed geologic repository could be operational and transportation services could begin in 2010. In the near-term the Program plans to focus its efforts on those activities necessary to reach a repository siting decision, and further work on this RFP will be deferred until the destination is determined and transportation preparation becomes a near-term objective. A siting decision is scheduled for FY 2001. When a siting decision has been made, the program may issue another draft RFP and/or seek additional comments. The Department of Energy is therefore not soliciting comments on this version of the draft RFP at this time.

This Notice should not be construed as a commitment to issue any RFP concerning the subject of this Notice or a final RFP.

Issued in Washington, D.C. on September 11, 1998.

Scott E. Sheffield,

Director, Program Services Division, Office of Headquarters Procurement Services.

[FR Doc. 98-24957 Filed 9-16-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP98-150-000 and CP98-151-000]

Millennium Pipeline Co., L.P. and Columbia Gas Transmission Corp.; Notice of Meeting Attendance

September 11, 1998.

The environmental staff will attend a U.S. Fish and Wildlife Service (FWS) meeting about the Millennium Project with other federal and state resource agencies on September 23, 1998. The meeting will be in Cortland, New York, at the FWS Office. A memorandum summarizing issues identified during the meeting will be filed in the public record for these dockets.

Information about the meeting may be obtained from: Diane Mann-Klager (FWS) at (607) 753-9334.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-24889 Filed 9-16-98; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6162-7]

National Advisory Council for Environmental Policy and Technology Reinvention Criteria Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Pub. L. 92463, EPA gives notice of a meeting of the National Advisory Council for Environmental Policy and Technology's (NACEPT) Reinvention Criteria Committee. NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The NACEPT Reinvention Criteria Committee (RCC) has been asked to help the Agency understand how incentives can be used most successfully to inspire firms, companies, communities, and individuals to go beyond mere compliance with existing regulations and to begin the process of addressing outstanding environmental problems. In particular, the committee is focusing on the following questions:

- What opportunities exist for EPA to use incentives to promote environmental stewardship in industry? In local communities? In the general public?

- How can EPA evaluate the effectiveness of incentives to encourage environmental stewardship that leads to improved environmental results? How can EPA measure the impact that incentives have on public confidence? What criteria should be used to decide whether the use of incentives is appropriate?

- How can the concept of performance ladders be used to tailor incentives most effectively?

This meeting is being held to provide the EPA with perspectives from representatives of state, local, and tribal governments, environmental organizations, academia, industry, and NGOs.

DATES: The RCC will hold a two-day public meeting at the Sheraton City

Centre Hotel, 1143 New Hampshire Avenue, NW, Washington, D.C. 20037, on Monday September 28, and Tuesday September 29, 1998 from 8:30 a.m. to 5:00 p.m.

ADDRESSES: Materials or written comments may be transmitted to the committee through Gwendolyn Whitt, Designated Federal Officer, NACEPT RCC, U.S. EPA, Office of Cooperative Environmental Management (1601F), 401 M Street, SW, Washington, D.C. 20460. There will also be an opportunity for the public to make comments directly to the committee during the first day of the meeting. Requests to make public comments must be submitted no later than September 14, 1998 to Gwendolyn Whitt, at the address above or faxed to (202) 260-6882.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Whitt, Designated Federal Officer, NACEPT, at (202) 260-9484.

Dated: September 2, 1998.

Gwendolyn Whitt,

Designated Federal Officer.

[FR Doc. 98-24952 Filed 9-16-98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

* * * * *

DATE & TIME: Tuesday, September 22, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceeding or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE & TIME: Thursday, September 24, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (ninth floor)

STATUS: This meeting will be open to the public

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes. Advisory Opinion 1998-13: Lawrence, O'Donnell, Marcus, L.L.C. by counsel, Lyn Utrecht. Final Audit Report on the Mapp for Congress Committee.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer, Telephone: (202) 694-1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98-25039 Filed 9-15-98; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission,

Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203-011601-001

Title: SUNMAR/FESCO Intermodal

Cooperative Working Agreement

Parties:

SUNMAR Container Lines, Inc.
FESCO Intermodal, Inc.

Synopsis: The proposed modification authorizes the parties to jointly charter vessels operated under the agreement and to obtain, discuss, and exchange information relating to any aspect of their operations in the trade.

Agreement No.: 224-201059

Title: West Gulf Intermodal Marine Terminal Operator's Conference

Parties:

Barbours Cut Intermodal Services;
Ceres Terminals, Inc.;
Fairway Terminals Corporation;
Port-Cooper/T. Smith Stevedoring Co.;
Shippers Stevedoring Co., Inc.;
Southern Stevedoring Co., Inc.;
Strachan Shipping Company

Synopsis: Under the agreement, the conference parties will meet to confer, discuss, exchange information and make recommendations with respect to rates, charges, practices, legislation, regulations and in matters of concern to the maritime shipping industry. The parties will consult with one another with relation to rates and charges and rules and regulations for, or in connection with, services and facilities, including, but not limited to, throughput, storage, maintenance and repair, equipment rental and leasing, inspection fees, drayage, interchange, demurrage, free time,

loading and unloading, licenses, preferential assignments, operating hours, and other privileges, charges, classifications, rules, regulations and practices. The parties may use this agreement to establish minimum rates or any uniform rules or regulations pertaining to any and all goods and services of any character, offered by any of the parties, as they may from time to time determine. There is no specific termination date for the agreement.

By Order of the Federal Maritime Commission.

Dated: September 11, 1998.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98-24876 Filed 9-16-98; 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 October 1, 1998.

A. Federal Reserve Bank of Atlanta
(Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Popekili Partners, L.P.*, Griffin, Georgia; to retain the voting shares of United Bank Corporation, Barnesville, Georgia, and thereby indirectly acquire United Bank, Zebulon, Georgia.

Board of Governors of the Federal Reserve System, September 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24941 Filed 9-16-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 2, 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. *Robert Rice*, Pipestone, Minnesota; to acquire voting shares of Citizens State Bank of Arlington, Arlington, South Dakota.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24973 Filed 9-16-98; 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 October 12, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Oconee Financial Corporation*, Watkinsville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Oconee State Bank, Watkinsville, Georgia.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Northern Star Financial, Inc.*, Mankato, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Northern Star Bank, Mankato, Minnesota.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *California Community Financial Institutions Fund Limited Partnership*, San Francisco, California; Belvedere Capital Partners, Inc., San Francisco, California; and California Financial Bancorp, Newport Beach, California; to acquire 100 percent of the voting shares of The Bank of Orange County, Fountain Valley, California.

2. *California Community Financial Institutions Fund Limited Partnership*, San Francisco, California; Belvedere Capital Partners, Inc., San Francisco, California; and California Financial Bancorp, Newport Beach, California; to merge with Downey Bancorp, Downey, California, and thereby indirectly acquire Downey National Bank, Downey, California.

Board of Governors of the Federal Reserve System, September 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24943 Filed 9-16-98; 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 October 12, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Travelers Rest Bancshares, Inc.*, Travelers Rest, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Travelers Rest, Travelers Rest, South Carolina.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to merge with TB&T, Inc., Dallas, Texas, and thereby indirectly acquire Texas Bank & Trust, Dallas, Texas.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Gold Banc Corporation, Inc.*, Leawood, Kansas; to acquire up to 100 percent of the voting shares of Citizens

Bancorporation, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Citizens Bank of Tulsa, Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24970 Filed 9-16-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-24490) published on pages 48732 and 48733 of the issue for Friday, September 11, 1998.

Under the Federal Reserve Bank of Minneapolis heading, the entry for Lake Bank Shares, Inc., Employee Stock Ownership Plan, Albert Lea, Minnesota, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Lake Bank Shares, Inc., Employee Stock Ownership Plan*, Albert Lea, Minnesota; to become a bank holding company by acquiring 30 percent of the voting shares of Lake Bank Shares, Inc., Albert Lea, Minnesota, and thereby indirectly acquire Security Bank Minneapolis, Albert Lea, Minnesota and First State bank of Emmons, Emmons, Minnesota.

Comments on this application must be received by October 8, 1998.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24972 Filed 9-16-98; 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 October 1, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Davis Bancorporation, Inc.*, Davis, Oklahoma to acquire an additional 5.26 percent, for a total of 14.89 percent, of the voting shares of FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a thrift depository institution pursuant to section 225.28(b)(4) of Regulation Y.

2. *First Centralia Bancshares, Inc.*, Centralia, Kansas; to acquire an additional 5.26 percent, for a total of 14.89 percent, of the voting shares of FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a thrift depository institution pursuant to section 225.28(b)(4) of Regulation Y.

3. *Morrill Bancshares, Inc.*, Sabetha, Kansas; to acquire directly and indirectly an additional 15.78 percent, for a total of 44.67 percent, of the voting shares of FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a thrift depository institution pursuant to section 225.28(b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, September 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24942 Filed 9-16-98; 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 October 2, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Compass Bancshares, Inc.*, Birmingham, Alabama; to acquire Albrecht & Associates, Inc., Houston, Texas, and thereby engage in financial and advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

2. *TIB Financial Corporation*, Key Largo, Florida; to acquire through its subsidiary, TIB Software & Services, Inc., Key Largo, Florida, a 30 percent interest in ERAS Joint Venture, Miami, Florida, and thereby engage in data processing activities, pursuant to § 225.28(b)(14) of Regulation Y.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *ANB Corporation*, Muncie, Indiana; to retain 15 percent of the voting shares of American National Trust and Investment Management Company, Muncie, Indiana, and thereby engage in trust company functions, pursuant to § 225.28(b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24971 Filed 9-16-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, September 23, 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. Proposals regarding the design and budget for a Federal Reserve Bank's building project.

2. Personnel actions (appointments, promotions, assignments, and salary actions) involving individual Federal Reserve System employees.

3. 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: September 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-25103 Filed 9-15-98; 3:55 pm]

BILLING CODE 6210-01-P

OFFICE OF GOVERNMENT ETHICS

Submission for OMB Review; Comment Request: Proposed New Public Financial Disclosure Access Customer Service Survey

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics has submitted the information

collection form proposed in this notice to the Office of Management and Budget (OMB) for review and three-year approval under the Paperwork Reduction Act.

DATES: Comments on this proposal should be received by October 19, 1998.

ADDRESSES: Comments should be sent to Joseph F. Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; telephone: 202-395-7316.

FOR FURTHER INFORMATION CONTACT:

William E. Gressman, Associate General Counsel, Office of the General Counsel and Legal Policy, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917; telephone: 202-208-8000, ext. 1110; TDD: 202-208-8025; FAX: 202-208-8037. A copy of the proposed survey may be obtained, without charge, by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics has submitted its proposed customer service survey form described below to OMB for review under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) and three-year approval thereunder.

The Office of Government Ethics is planning to assess, through the proposed "Public Financial Disclosure Access Customer Service Survey" form, requester satisfaction with the service provided by OGE in responding to requests by members of the public for access to copies of Standard Form (SF) 278 Executive Branch Personnel Public Financial Disclosure Reports on file with the Office. Most of the SF 278 reports available at OGE are those filed by executive branch Presidential appointees subject to Senate confirmation. Requests for access to SF 278 reports are made pursuant to the special public access provision of section 105 of the Ethics in Government Act of 1978 (the Ethics Act), as codified at 5 U.S.C. appendix, section 105, and 5 CFR 2634.603 of OGE's executive branchwide regulations thereunder, by completing an OGE Form 201, "Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Report or Other Covered Record."

The Office of Government Ethics will distribute the new access customer service survey forms to requesters along with their copies of requested SF 278 reports, with instructions asking them to complete and return the survey to OGE via the self-contained postage-paid postcards (the reverse side of the survey

form, when folded, becomes a preaddressed postcard). The purpose of the survey will be to determine through customer responses how well OGE is responding to such requests and how the Agency can improve its customer service in this important area.

Pursuant to the Paperwork Reduction Act, OGE is not including in its public burden estimate for the new access customer service survey form the limited number of access requests filed by other Federal agencies or Federal employees. Nor is OGE including in that estimate the also limited number of requests for copies of other records covered under the special Ethics Act public access provision (such as certificates of divestiture), since the survey will only be sent to persons who request copies of SF 278 reports. As so defined and assuming a 100% return rate, the total number of access survey forms for copies of SF 278s estimated to be filed annually at OGE over the next three years by members of the public (primarily by news media representatives, public interest group members and private citizens) is 186. This estimate is based on a calculation of the average number of underlying access requests for copies of SF 278 reports received at OGE over the past two calendar years—1996 (152 requests) and 1997 (220 requests). The estimated average amount of time to read the instructions on the new customer service survey form and complete the form is three minutes. Thus, the overall estimated annual public burden for the proposed OGE Public Financial Disclosure Access Customer Service Survey will be nine hours (186 forms × 3 minutes per form, with the number of hours rounded off from 9.3 to 9).

On June 19, 1998, OGE published its first round notice of the forthcoming request for paperwork clearance for this new customer survey. See 63 FR 33668, with comments due by September 2, 1998. The Office of Government Ethics did not receive any comments or requests for copies of the proposed survey form.

In this second round notice, public comment is again invited on each aspect of OGE's proposed new access customer service survey form, including specifically views on: the need for and practical utility of this new collection of information; the accuracy of OGE's public burden estimate; the potential for enhancement of quality, utility and clarity of the information to be collected; and the minimization of burden (including the possibility of use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments

received, which will become a matter of public record.

Approved: September 14, 1998.

F. Gary Davis,

Deputy Director, Office of Government Ethics.

[FR Doc. 98-24968 Filed 9-16-98; 8:45 am]

BILLING CODE 6345-01-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Science Board to the Food and Drug Administration.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 21, 1998, 9 a.m. to 4 p.m.

Location: Washington Plaza Hotel, Washington Room, 10 Thomas Circle, NW., Washington, DC.

Contact Person: Susan K. Meadows, Office of Science (HF-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4591, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12603. Please call the Information Line for up-to-date information on this meeting.

Agenda: Information will be presented to the board regarding broad scientific and technical issues including: (1) A proposal for review of research conducted at the Center for Food Safety and Applied Nutrition, (2) the process for external peer review of research programs, (3) operational models for FDA science and research management and coordination, and (4) scientific issues of interest to FDA stakeholders.

Procedure: On October 21, 1998, from 10 a.m. to 4 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending

before the committee. Written submissions may be made to the contact person by October 1, 1998. Oral presentations from the public will be scheduled between approximately 2:30 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person by October 1, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On October 21, 1998, from 9 a.m. to 10 a.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The board will discuss nominations for the FDA Awards for Scientific Achievement. Such discussion in a public meeting would disclose information of a personal nature and would constitute an invasion of personal privacy.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 10, 1998.

William B. Schultz,

Acting Commissioner of Food and Drugs.

[FR Doc. 98-24865 Filed 9-16-98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA-R-0074]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed

information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Income and Eligibility Verification System (IEVS) and Supporting Regulations in 42 CFR 435.940-435.965; *Form No.:* HCFA-R-0074 (OMB# 0938-0467); *Use:* Section 1137 of the Social Security Act requires Medicaid State agencies and other federally funded welfare agencies to request income and resource data from certain federal agencies, State wage information collection agencies, and State unemployment compensation agencies through an IEVS. The purpose of the IEVS is to ensure that only eligible individuals receive benefits.; *Frequency:* Annually; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 54; *Total Annual Responses:* 54; *Total Annual Hours:* 131,390.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2-14-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: September 8, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98-24882 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Care Financing Administration**

[Document Identifier: HCFA-R-259]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Evaluation of the EverCare Demonstration; *Form No.:* HCFA-R-259; *Use:* This survey will capture information on the quality of capitated Medicare coverage to nursing home residents, such as the description of the person, information regarding enrollment / disenrollment, quality of life, satisfaction including issues of access to services, advance medical directives, general health, and functional status. This information will be used to support analyses of enrollment decisions, access to services and providers, and outcomes for both the enrollee and family members. The underlying premise of the EverCare demonstration is that closer attention to primary care needs of high-risk patients through the use of nurse practitioners and/or physicians assistants can reduce the use of hospitals (and emergency rooms). *Frequency:* On occasion; *Affected Public:* Individuals or Households; *Number of Respondents:* 3,150; *Total Annual Responses:* 3,150; *Total Annual Hours:* 1,962.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at <http://www.hcfa.gov/reg/prdact95.htm>, or E-mail your request, including your

address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room N2-14-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: September 4, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Security and Standards Group, Health Care Financing Administration.

[FR Doc. 98-24932 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Care Financing Administration**

[Document Identifier: HCFA-R-224]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Collection of Managed Care Data Using the Uniform Institutional Providers Form (HCFA-1450/UB-92) and Supporting Statute Section 1853(a)(3) of the Balanced

budget Act of 1997; Form No.: HCFA-R-224 (OMB No. 0938-0711); *Use:* Section 1853(a)(3) of the Balanced Budget Act (BBA) requires Medicare+Choice organizations, as well as eligible organizations with risk-sharing contracts under section 1876, to submit encounter data. Data regarding inpatient hospital services are required for periods beginning on or after July 1, 1997. These data may be collected starting January 1, 1998. Other data (as the Secretary deems necessary) may be required beginning July 1, 1998.

The BBA also requires the Secretary to implement a risk adjustment methodology that accounts for variation in per capita costs based on health status. This payment method must be implemented no later than January 1, 2000. The encounter data are necessary to implement a risk adjustment methodology.

Hospital data from the period, July 1, 1997-June 30, 1998, will serve as the basis for plan-level estimates of risk adjusted payments. These estimates will be provided to plans by March, 1999. Encounter data collected from subsequent time periods will serve as the basis for actual payments to plans for CY 2000 and beyond.

In implementing the requirements of the BBA, hospitals will submit data to the managed care plan for enrollees who have a hospital discharge using the HCFA-1450 (UB-92), Uniform Institutional Provider Claim Form. Encounter data for hospital discharges occurring on or after July 1, 1997 are required. While submission from the hospital to the plan is required, plans are provided with an alternate submission route for the start-up year.

Special procedures have been identified to ensure that hospital encounter data are submitted for discharges occurring between July 1, 1997 and June 30, 1998, the start-up year. HCFA has identified three alternatives for the submission of hospital encounter data for discharges during the start-up year, including the following:

Option 1: The Plan will have a hospital submit UB-92s or Medicare Part A ANSI ASC X12 837 (ANSI 837) records using the traditional HMO "No Pay" bill method.

Option 2: The Plan can currently produce a complete UB-92/ANSI 837 and will hold the data until the fiscal intermediary (FI) can accept it.

Option 3: The Plan will submit an abbreviated UB-92 data set via an alternative route.

During the start up year, the plan is expected to establish an electronic data linkage to a FI to be determined by

HCFA. HCFA will assist Plans in initiating discussions with their FI. By July 15, 1998, the Plan is expected to have completed this linkage, including testing of the linkage, and to be capable of transmitting hospital encounter data to a FI. Data for the start-up year must be transmitted to the plan's FI by September 18, 1998. All data with discharge dates after July 1, 1998 will be transmitted using this linkage. (See Appendix III for additional information on the transmission of data to HCFA.) Each plan and/or contract will use a single FI. HCFA will establish a series of interim deadlines to ensure that plans are making sufficient progress toward accomplishing this linkage no later than July 15, 1998.

After plans have established linkages to a FI, hospitals will submit HCFA-1450 (UB-92) forms to the managed care plan. The HCFA-1450 (UB-92) form is identical to the one used by hospitals in billing for Medicare fee-for-service claims. After receiving the pseudo claim from the hospital, the plan attaches the plan identifier, which is the HCFA assigned managed care organization (MCO) Contract Number, and submits the pseudo-claim electronically to the fiscal intermediary (FI). The data processing flow by the FI is very similar to current claims processing for the fee-for-service system, except that no payment is authorized to the plan. Pseudo claims will flow through the FI to our Common Working File (CWF) and will be retained by HCFA.

Frequency: On occasion; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and Federal government; *Number of Respondents:* 1.9 million; *Total Annual Responses:* 1.9 million; *Total Annual Hours:* 6,547.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 8, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98-24881 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA-R-228]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because training of respondents to complete the collection of information will be required before the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. This collection is necessary to ensure compliance with section 1854 of the Balanced Budget Act. Under Part C of the Social Security Act and 42 CFR 422.306 of the regulations, a Medicare+Choice (M+C) organization is required to submit an Adjusted

Community Rate (ACR) proposal prior to 05/01/99, which is used by M+C organizations to price its benefit packages (M+C plan). Without emergency approval entities interested in participating in the M+C program will not be afforded enough time to thoroughly understand the requirements and submit the required application prior to the 05/01/99 deadline. A training session is being scheduled for November 1998 to provide interested parties sufficient information to properly complete the ACR. These organizations may need to develop alternate methods to accumulate data to include in their ACR submissions. Without the training session, some organizations may submit ACRs that are not complete, timely, or accurate. HCFA has the authority to impose sanctions or may choose not to renew the organization's contract. As a result, public harm is likely to result because eligible individuals may not receive the M+C health insurance options stipulated by the BBA.

HCFA is requesting OMB review and approval of this collection within eleven working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within ten working days. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: New collection.

Title of Information Collection: Managed Care Adjusted Community Rate (ACR) Proposal.

Form Number: HCFA-R-228 (OMB approval #: 0938-NEW).

Use: This collection effort will be used to price the M+C plan offered to Medicare beneficiaries by an M+C organization. Organizations submitting the Adjusted Community Rate form would include all M+C organizations plus any organization intending to contract with HCFA as a M+C organization. These current M+C organization contractors will be required to submit this form no later than May 1, 1999 for the calendar year 2000.

Frequency: Annually.

Affected Public: Businesses or other for profit, Not-for-profit institutions.

Number of Respondents: 400.

Total Annual Responses: 400.

Total Annual Hours Requested: 40,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within ten working days:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise
Standards, Room N2-14-26, 7500
Security Boulevard, Baltimore, MD
21244-1850, Fax Number: (410) 786-
0262, Attn: John Rudolph HCFA-R-
228

and,

Office of Information and Regulatory
Affairs, Office of Management and
Budget, Room 10235, New Executive
Office Building, Washington, DC
20503, Fax Number: (202) 395-6974
or (202) 395-5167, Attn: Allison
Herron Eydt, HCFA Desk Officer

Dated: September 10, 1998.

John P. Burke III,

*HCFA Reports Clearance Officer,
HCFA, Office of Information Services,
Security and Standards Group, Division of
HCFA Enterprise Standards.*

[FR Doc. 98-24933 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier HCFA-R-257]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this

collection of information, including any of the following subjects: (1) The necessity of the utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. Due to the unanticipated event and the fact that this collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320, we are requesting an emergency review.

With the creation of the Medicare+Choice program, as required by the Balanced Budget Act of 1997 (Pub. L. 105-33), new provisions have been implemented to coordinate Medicare beneficiaries' choices through the Medicare+Choice organizations. Specifically, the provisions require the establishment of procedures through which Medicare+Choice elections are made and changed, including the form and manner in which such elections are made and changed, as required by section 4001 of the Balanced Budget Act (BBA) of 1997. This necessitated a need to create an additional mechanism for beneficiaries make election to disenroll to original Medicare. This also provided the opportunity to collect information on beneficiary disenrollment behavior, as the BBA provisions required the development of quality and performance measures, specifically including collection of information regarding disenrollment rates. Collection of disenrollment reason data will promote active, informed selection by beneficiaries of options as well as to conduct quality control studies. By allowing beneficiaries the ability to request the disenrollment forms from the customer teleservice representatives, HCFA will ultimately be providing the beneficiary with more flexibility and options.

The purpose of this submission is to request approval of a disenrollment form that beneficiaries will be able to obtain from the Medicare+Choice toll-free number that is to be established (as required by the BBA). Such a form

allows the beneficiary to disenroll from a Medicare+Choice organization to original (fee-for-service) Medicare and allows HCFA to collect information for analysis of disenrollment rates and reasons for disenrollment. The Medicare+Choice toll-free number will be operational in November 1998 and a more expedient review is needed in order for the form to be ready to provide to the beneficiaries when the call center is operational.

HCFA is requesting OMB review and approval of this collection within eleven working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below, within ten working days of publication of this notice in the **Federal Register**.

During this 180-day period, HCFA will pursue OMB clearance of this collection as stipulated by 5 CFR 1320.

Type of Information Collection

Request: New Collection.

Title of Information Collection:

Medicare+Choice Disenrollment Form.

Form Nos.: HCFA-R-257.

Use: The primary purpose of the new form is to receive and process the beneficiary's request for disenrollment from a Medicare+Choice plan and to return to original (fee-for-service) Medicare. The secondary purpose of the new form is to obtain the reason for the disenrollment, for analysis and reporting.

Frequency: As requested by beneficiary.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, and Federal government.

Number of Respondents: 60,000 annually.

Total Annual Responses: 20,000 in first year, 60,000 thereafter.

Total Annual Hours: 3,960.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and record keeping requirements must be mailed and/or faxed to the designee referenced below, within ten working days of

publication of this collection in the **Federal Register**:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise
Standards, Room N2-14-26, 7500
Security Boulevard, Baltimore, MD
21244-1850, Fax Number: (410) 786-
0262, Attn: Louis Blank HCFA-R-257
and

Office of Information and Regulatory
Affairs, Office of Management and
Budget, Room 10235, New Executive
Office Building, Washington, DC
20503, Fax Number: (202) 395-6974
or (202) 395-5167, Attn: Allison
Herron Eydt, HCFA Desk Officer.

Dated: September 10, 1998.

John P. Burke III,

*HCFA Reports Clearance Officer, HCFA,
Office of Information Services, Security and
Standards Group, Division of HCFA
Enterprise Standards.*

[FR Doc. 98-24934 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Partners for the National Organ and Tissue Donation Initiative

AGENCY: Health Resources and Services
Administration, HHS.

ACTION: Notice of opportunity for
partnerships.

SUMMARY: The Health Resources and
Services Administration (HRSA),
Department of Health and Human
Services (DHHS), announces the
opportunity for public or private
nonprofit or for-profit organizations or
corporations to develop partnerships
with DHHS to carry out specific
components of the National Organ and
Tissue Donation Initiative.

DATES: To receive consideration,
requests to participate as a partner must
be received by D.W. Chen, M.D., M.P.H.,
Acting Director, Division of
Transplantation, Office of Special
Programs (OSP), HRSA. There are no
deadlines applicable to this partnership
opportunity.

FOR FURTHER INFORMATION CONTACT: Dr.
D.W. Chen, Acting Director, Division of
Transplantation, OSP, HRSA, Parklawn
Building, Room 7-29, 5600 Fishers
Lane, Rockville, Maryland, 20857, (301)
443-7577.

SUPPLEMENTARY INFORMATION:

Background

While medical advances now enable
more than 20,000 Americans per year to
receive organ transplants that save or
enhance their lives, not enough organs
are available to help everyone in need.
As a result, about 4,000 people die in
the U.S. each year—about 10 every
day—while waiting for a donated
kidney, liver, heart, lung, or other organ.
Today, more than 56,000 people are on
the national organ transplant waiting
list, yet fewer than 9,000 people became
organ donors in 1997. Two major
impediments to donation are that many
families of potential donors are not
asked about donation possibilities, and
many who are asked refuse.

As part of DHHS' efforts to increase
organ and tissue donation, DHHS has
developed the National Organ and
Tissue Donation Initiative (Initiative) to
implement strategies for surmounting
current barriers to donation. The goals
of the Initiative are to: (1) increase
consent to donation, (2) ensure that
families of potential donors are given
the option of donation, and (3) focus
research and increase knowledge about
what works to increase donation.

To address these goals, DHHS will
create a broad national partnership of
public, private, and volunteer
organizations to encourage Americans to
agree to organ and tissue donation. The
partnerships will emphasize the need to
make decisions about donation and to
share these decisions with one's family,
targeting the general public as well as
minority populations.

The Initiative also will address health
care providers, consumers, and
physicians so that all potential donors
are referred by hospitals to organ
procurement organizations (OPOs) and
families may have the option to donate
or not to donate.

Finally, the Initiative encourages
research and evaluation to identify
effective strategies for increasing
donation. This Initiative will build on
more than a decade of experience
gained from government, private, and
volunteer efforts.

Requirements for Partnership

The Initiative is seeking partnerships
with public or private nonprofit or for-
profit organizations or corporations to
develop and implement strategies
addressing the goals and incorporating
the messages of this Initiative with the
overall aim of increasing organ and
tissue donation and focusing on relevant
target groups, including minorities,
health care professionals, government
agencies, community organizations,
businesses, the general public and

others. DHHS will reserve the right to
determine the form, content, and
methods utilized in strategies proposed
by prospective partners. The Initiative
envisioned partnerships with a wide
variety of groups and corporations that
can reach the American public with the
Initiative's message and help to increase
the number of Americans willing to be
organ and tissue donors. These partners
would assist in the development and
implementation of programs and the
development and dissemination of
information materials. Evaluation of
partnership efforts is highly
recommended. Partners' duties will
include:

(1) Identification of strategies to
increase organ and tissue donation and,
where appropriate, evaluation protocols
for measuring the impact of these
strategies; and

(2) Implementation of identified
strategies with evaluation procedures,
where appropriate.

Specific partnerships may be
dependent on the availability of
resources to perform the partnership
activities. Partners may collaborate with
other partners as one way to leverage
and maximize resources.

Eligibility for Partnership

To be eligible, an interested party
must be: (1) a public or a private
nonprofit or for-profit organization or
corporation, and (2) an entity that, by
virtue of its nature and purpose, has a
legitimate interest in the Nation's
health.

Expressions of Interest

Each request for partnership should
be in writing and contain information
pertinent to the partnership
opportunity.

Evaluation Criteria

The partners will be selected by the
Division of Organ Transplantation,
HRSA, in consultation with the Office of
the Secretary, DHHS, based on the
following evaluation criteria:

(1) The interested party's
qualifications and capability to develop,
implement, and (where appropriate)
evaluate strategies to increase organ and
tissue donation that are congruent with
the goals and messages of this Initiative;

(2) The ability of the interested party
to provide or acquire resources for the
development, implementation, and
evaluation (as appropriate) of the
proposed strategy and the interested
party's capability of reaching the
specific population(s) targeted by the
strategy;

(3) A description of the interested
party's dealings with DHHS.

In addition, the Government will evaluate carefully whether to enter into a partnership with an entity that would be deemed a "prohibited source" under the Standards of Ethical Conduct for Employees of the Executive Branch, and may choose to deny a partnership with a "prohibited source." A prohibited source has been defined in 5 CFR 2635.203(d) as any person or entity that (1) is seeking official action by the agency planning the event, (2) does business or seeks to do business with that agency, (3) conducts activities regulated by that agency, (4) has interests that may be substantially affected by the performance or nonperformance of the official duties of an employee of that agency; or (5) is an organization the majority of whose members are described in (1)-(4) above. While partnerships with "prohibited sources" are not necessarily prohibited, the Government must weigh the importance of working with a given "prohibited source" against the appearance of a conflict of interest before that source may be accepted as a partner.

Neither this notice nor actions pursuant thereto create a property right or right of any kind in any natural or artificial person requesting partnership. DHHS has the unilateral right to refuse to enter into a partnership arrangement with any entity, and the exercise of this right is solely within the discretion of DHHS.

Other Information

Prior to the selection of the partners, DHHS staff involved in the Initiative will meet separately with those interested parties who best meet the evaluation criteria. In those situations where the Food and Drug Administration regulates the labeling of products manufactured by the partners, the inclusion of Initiative information on such products will be subject to FDA review and may require agency authorization, depending on how and the context in which the information is to be used. Further, as a general rule, restrictions will apply to the use of Initiative indicia so as to avoid suggestions that DHHS, or any other department or agency of the Federal Government, endorses any of the products involved in the Initiative. Once details of the program have been mutually agreed upon, partners will be required to enter into a partnership agreement with DHHS setting forth the rights and responsibilities of the partner and DHHS.

Dated: September 11, 1998.

Claude Earl Fox,
Administrator.

[FR Doc. 98-24911 Filed 9-16-98; 8:45 am]

BILLING CODE 4160-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: August 1998

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of August 1998, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
Aginsky, Roman	9/20/1998
Lido Beach, NY	
Alegre, Santiago	9/20/1998
Hialeah, FL	
Anderson, Patricia White	9/20/1998
Decatur, GA	
Ayzenshtat, Zoya	9/20/1998
Merrick, NY	
Bullard, Carol	9/20/1998
Decatur, GA	
Bullard, Lester	9/20/1998
Decatur, GA	
Crowley, Rebecca R	9/20/1998
Batesville, MS	
Crown Ostomy, Inc	9/20/1998
Sunrise, FL	
Cummings, Robert	9/20/1998
Rumford, RI	
Disante, Anthony F	9/20/1998
Coraopolis, PA	
Donlin, Dennis L	9/20/1998
Clairton, PA	
Donski, Valeri	9/20/1998
Brooklyn, NY	
Doval, Ana Maria	9/20/1998
Subject city, state	Effective date
Miami, FL	
Fernandez, Jorge	9/20/1998
Miami, FL	
Gomez, Zoraida	9/20/1998
Hialeah, FL	
Hayes, McCoy, Jr	9/20/1998
Goldsboro, NC	
Hernandez, Gabriel	9/20/1998
Miami, FL	
Jones, Randy	9/20/1998
El Reno, OK	
Keenan, Michelle	9/20/1998
East Ryegate, VT	
Kobashigawa, Ted Hajime	9/20/1998
Sacramento, CA	
Lawrence, Irving Jack	9/20/1998
Conyers, GA	
Lawrence, Renee D	9/20/1998
Conyers, GA	
Lombardo, Edward P	9/20/1998
Milan, MI	
Lynn, Bambi	9/20/1998
Goffstown, NH	
Maxwell, Harold Marion	9/20/1998
Missoula, MT	
McKeller, Annie Alston	9/20/1998
Nashville, NC	
Medi Sheild, Inc	12/17/1997
Tamarac, FL	
Melvin-Hodge, Fayanna L	9/20/1998
Baltimore, MD	
Miner, Ernest Carlton	9/20/1998
Seattle, WA	
Morrisset, Joan V	9/20/1998
Amherst, NY	
Morton, Sallie Jones	9/20/1998
Phenix, VA	
Peck, Kathryn Marie	9/20/1998
Fort Collins, CO	
Penate, Orlando	9/20/1998
Davie, FL	
Peterson, Sandra Marie	9/20/1998
Georgetown, CO	
Polonio, Oscar Jose	9/20/1998
Mesquite, TX	
Reyderman, Georgy	9/20/1998
Brooklyn, NY	
Robbins, Robert Paul	9/20/1998
Las Vegas, NV	
Sadigh, Ahmad	9/20/1998
Staten Island, NY	
Santiesteban, Wenceslao	9/20/1998
Hialeah, FL	
Slaughter, Juanita	9/20/1998
Portsmouth, VA	
Smith, Sharon Joy Harper	9/20/1998
LaGrange, NC	
Torres, Jaime Gotay	12/31/1997
Bayamo, PR	
Torres, Manuel Gotay	12/31/1997
Toa Baja, PR	
Tserlyuk, Yekaterina	9/20/1998
Staten Island, NY	
White, Deborah Williams	9/20/1998
Decatur, GA	
White, Horace Lee	9/20/1998
Decatur, GA	
Yanes, Mario	9/20/1998
Hialeah, FL	
Yanes, Zoraida	9/20/1998

Subject city, state	Effective date	Subject city, state	Effective date	Subject city, state	Effective date
Hialeah, FL		Middletown, NY		Haysville, KS	
FELONY CONVICTION FOR HEALTH CARE FRAUD		Brooks, Delroy Courtney	9/20/1998	Jefferies, Thomas	9/20/1998
		Orange, NJ		Catlin, IL	
		Brown, Wayne J	9/20/1998	Jones, Nancy Ellen Gooch	9/20/1998
		Los Angeles, CA		Westfield, IN	
Dillon, David Andrew	9/20/1998	Cameron, Anne	9/20/1998	Kirbans, Drew Joseph	9/20/1998
Phoenix, AZ		Merrimack, NH		Aurora, CO	
PATIENT ABUSE/NEGLECT CONVICTIONS		Cantara, Anthony M	9/20/1998	Kirkton, Mary	9/20/1998
		Allenstown, NH		Minonk, IL	
Adkins, Melicia Michelle	9/20/1998	Chu, Eric Chun	9/20/1998	Klutchko, Bruce Stewart	9/20/1998
Fort Worth, TX		East Meadow, NY		New York, NY	
Budhiraja, Sudesh Kumar	9/20/1998	Connell, Paul A P	9/20/1998	Ladra, William	9/20/1998
Framingham, MA		Tucker, GA		Jacksonville, FL	
Dargans, Nedra Lois	9/20/1998	Cook, Karen E	9/20/1998	Larkins, Robert	9/20/1998
Tulsa, OK		Worthington, MN		Rego Park, NY	
Fason, Carey Lynne	9/20/1998	Corliss, Steven	9/20/1998	Larson, Sandi Queck	9/20/1998
Scotland, AR		Bristol, CT		Springdale, PA	
Garner, Diana	9/20/1998	Cromer, Robert Wayne	9/20/1998	Ledingham, Jeanne Crase	9/20/1998
Canton, MS		Richmond, VA		Redlands, CA	
Grant, Darnell	9/20/1998	Donovan, John V	9/20/1998	Lemke, Larry J	9/20/1998
Moncks Corner, SC		Scarsdale, NY		Minneapolis, MN	
Johnson, Jacob, Jr	9/20/1998	Doty, John R	9/20/1998	Lennon, Susan Wagner	9/20/1998
Columbia, SC		St. Paul, MN		Rochester, NY	
Lievsay, James Harold	9/20/1998	Douglas, Howard Thomas, III ..	9/20/1998	Leritz, Arthur F	9/20/1998
Cedarville, AR		Hurst, TX		Spokane, WA	
Lynch, Nancy T	9/20/1998	Driver, Suzanne	9/20/1998	Mason, Kenneth P	9/20/1998
Morrisville, VT		San Francisco, CA		Hancock, NY	
Meade, Ruth K	9/20/1998	Ebert, Delores M	9/20/1998	McGivney, Marita	9/20/1998
Enid, OK		Hibbing, MN		Tinley Park, IL	
Moore, Maggie	9/20/1998	Edwardson, Donald	9/20/1998	McLaughlin, Mary C	9/20/1998
Jackson, MS		Meriden, CT		Two Harbors, MN	
Obeahon, Alexander Coleridge	9/20/1998	Ettress, Gail A	9/20/1998	McNeely, Denise Joanne	9/20/1998
Baltimore, MD		Springfield, IL		Las Vegas, NV	
Robertson, Pamela Jean	9/20/1998	Farley, Maureen C	9/20/1998	Merjianian, Marsha E	9/20/1998
Whiteville, TN		Janesville, MN		St Paul, MN	
Rogers, Joseph Lee	9/20/1998	Fisher, Billy W., Jr	9/20/1998	Merritt, Pamela Lorene	9/20/1998
Holdenville, OK		Charlottesville, VA		El Cajon, CA	
Simpson, Thelma A	9/20/1998	Floyd-Dade, Cassandra	9/20/1998	Miller, Elaine P	9/20/1998
New Orleans, LA		Meadville, MS		Cortland, NY	
Turley, Glenn P	9/20/1998	Franks, Cynthia Jo	9/20/1998	Mogilevsky, Semyon	9/20/1998
Barre, VT		San Dimas, CA		Chicago, IL	
Turner, Tanya Denise	9/20/1998	Freedland, Yosef	9/20/1998	Montgomery, Robert	9/20/1998
Marianna, AR		Los Angeles, CA		Leesburg, FL	
Wilcox, Benny	9/20/1998	Gain, John Joseph	9/20/1998	Morgala, Theresa	9/20/1998
De Queen, AR		Kenneth Square, PA		Des Plaines, IL	
CONVICTION FOR HEALTH CARE FRAUD		Ganti, Shashi	9/20/1998	Morgan, Alan J	9/20/1998
		Edison, NJ		Minneapolis, MN	
		Gilbert, Rosemarie C	9/20/1998	Murray, John Robert G	9/20/1998
		Moundsview, MN		El Cajon, CA	
Provost, Angie Vonciel	9/20/1998	Goldberg, Steven M	9/20/1998	Morton, Robert Oliver	9/20/1998
New Orleans, LA		Chatsworth, CA		Duncan, OK	
Saberi, Merdad	9/20/1998	Golub, Mark A	9/20/1998	Newgren, Gregory D	9/20/1998
Lowell, MA		Newport News, VA		St Paul, MN	
Walitalo, Darleen V	9/20/1998	Goodnuff, Jeffrey L	9/20/1998	Norvelle, Robert Earl	9/20/1998
Escanaba, MI		Edina, MN		Bridgewater, VA	
LICENSE REVOCATION/SUSPENSION/ SURRENDERED		Hagan, Marianne M	9/20/1998	Oehlecker, Donald G	9/20/1998
		Pennsauken, NJ		Wichita, KS	
		Harris, Diane L	9/20/1998	Otero, Kristin M	9/20/1998
		Washington, DC		St Paul, MN	
Abrahamson, Kip L	9/20/1998	Heaney, Howard F	9/20/1998	Patel, Mukund Kanu	9/20/1998
Brooklyn Center, MN		White Bear Lake, MN		Columbus, MS	
Alfano, Constance	9/20/1998	Hendrick, William	9/20/1998	Perkins, Lamont	9/20/1998
Ridgewood, NJ		Riverside, CA		Chicago, IL	
Anast, Deborah	9/20/1998	Herhusky, Vaughn	9/20/1998	Peterson, Roberta J	9/20/1998
Winthrop Harbor, IL		Virginia, MN		Moundsview, MN	
Andersen, Alfred N	9/20/1998	Hilgreen, Marianne J	9/20/1998	Piccola, Cindee L	9/20/1998
Pleasantville, NY		Westbury, NY		Chatham, NY	
Barker, Christopher B	9/20/1998	Hodgkiss, Nancy A	9/20/1998	Piscitello, Kathryn	9/20/1998
Christiansburg, VA		Lewiston, ME		Branford, CT	
Baumgartner, Frank M	9/20/1998	Howard, Theodora	9/20/1998	Pitt, Cheryl L	9/20/1998
Skippack, PA		Richmond, VA		Reston, VA	
Brickey, Harold Leon Jr	9/20/1998	Hurley, Linda	9/20/1998	Redondo-Malamud, Yasmin B ..	9/20/1998
Wise, VA		Oak Lawn, IL		Silver Spring, MD	
Brisotti, Lorraine C	9/20/1998	Jamieson, Austin L	9/20/1998	Rosen, Raymond	9/20/1998

Subject city, state	Effective date	Subject city, state	Effective date	Subject city, state	Effective date
Long Beach, CA		Miami, FL		Mohnton, PA	
Roubik, Karen M	9/20/1998	Norton Chiropractic Center	9/20/1998	Marcos, Emad R	9/20/1998
Noblesville, IN		Augusta, ME		Waldwick, NJ	
Rutland, William	9/20/1998	Save Medical Service Corp	9/20/1998	McCluskey, Larose M	9/20/1998
Mounds, IL		Miami, FL		Othello, WA	
Sarieva, Zoika	9/20/1998	South Pacific Medical Services	9/20/1998	McDonald, Allan D	9/20/1998
Los Angeles, CA		Miami, FL		Frostburg, MD	
Shinkoskey, Almon C	9/20/1998	Universal Medical, Inc	9/20/1998	McFarland, Lucinda Grace	9/20/1998
Seattle, WA		Miami, FL		Los Angeles, CA	
Silacci, Susan Woodard	9/20/1998			Milligan, Michael R	9/20/1998
Salinas, CA				Kansas City, KS	
St Germain, Shirley Jean	9/20/1998			Morgan, Charles Timothy	9/20/1998
Minneapolis, MN				Perryville, MO	
Stankovic, Marjan Mladen	9/20/1998			Preston, Michael R	9/20/1998
Monroe, WA				Hagerhill, KY	
Sterling, Jessie R	9/20/1998			Richard, John R	9/20/1998
Frankfort, NY				Brooklyn, NY	
Taylor, Lisa Gay	9/20/1998			Sales, Myrna	9/20/1998
Victorville, CA				Blooming Glen, PA	
Teich, Thomas	9/20/1998			Shaffer, Steven E	9/20/1998
Chicago, IL				Garden Grove, CA	
Thompson, Sally Randolph	9/20/1998			Shirzad, Mehdi	9/20/1998
Norfolk, VA				Gilroy, CA	
Tsai, Chinfong	9/20/1998			Sills, Timothy J	9/20/1998
Zion, IL				Old Monroe, MO	
Van Gieson, George H	9/20/1998			Smiley, Karen J	9/20/1998
Hilo, HI				Chattanooga, TN	
Vandeventer, Phyleta	9/20/1998			Smith, Benjamin F	9/20/1998
Lincoln, IL				Albany, GA	
Vugrincic, Ched	9/20/1998			Sottile, Danielle N	9/20/1998
Saint Charles, IL				Tehachapi, CA	
Weaver, Thomas G	9/20/1998			Stock-Day, Lori Ruth	9/20/1998
St Cloud, MN				Belton, MO	
Williams, Noel Alton	9/20/1998			Stockwell, Gayle A	9/20/1998
Walnut Creek, CA				Lake Havasu City, AZ	
Winchester-Grant, Michelle	9/20/1998			Stone (Needham), Heidi L	9/20/1998
Enfield, NH				Plano, TX	
Zwartkruis, Marjoleine J	9/20/1998			Strickland, Christopher O	9/20/1998
Walnut Creek, CA				Weatherford, TX	
FEDERAL/STATE EXCLUSION/ SUSPENSION				Sulkowski, Edmund A	9/20/1998
Metro Health Care Services Inc	9/20/1998			Venetia, PA	
New York, NY				Taylor, Thomas R	9/20/1998
FRAUD/KICKBACKS				Kansas City, MO	
Marcus, Steven E	6/08/1998			Taylor, Rodger E	9/20/1998
King of Prussia, PA				E Wenatchee, WA	
Victory Medical Supplies, Inc ...	12/17/1997			Tomlinson, Alison K	9/20/1998
Goose Creek, SC				N Miami Beach, FL	
Victory Medical, Inc	12/17/1997			Toporovsky, Nathan A	9/20/1998
Columbia, IL				White Plains, NY	
OWNED/CONTROLLED BY CONVICTED/ EXCLUDED				Tran, Nga V	9/20/1998
Apollo Medical Equipment, Inc	9/20/1998			Santa Ana, CA	
Miami, FL				Tran, Ngoc H	9/20/1998
Boufford Chiropractic Offices	9/20/1998			Simi Valley, CA	
Salem, MA				Trumbo, Traig T	9/20/1998
Capital Medical Supplies, Corp	9/20/1998			Sunland, CA	
Miami, FL				Uske, Eugene J	9/20/1998
Correa Supply, Corporation	9/20/1998			Staten Island, NY	
Miami, FL				Velazquez, Ezekiel A	9/20/1998
Darlene Medical Corp	9/20/1998			Orlando, FL	
Miami, FL				Weisheit (Dasylya), Lyn D	9/20/1998
Gieger Transfer Service, Inc	9/20/1998			Marietta, GA	
Montgomery, AL				Wright, Letitia S	9/20/1998
Hickory Plaza Pharmacy	9/20/1998			Rancho Cucamonga, CA	
Columbia, MD				SETTLEMENT AGREEMENT	
Imperial Medical & Rental, Inc	9/20/1998			Inejikian, Jirair A	1/30/1998
				Shelby, NC	
				Rubio, Charles	4/21/1998
				Auburn, AL	

Dated: September 2, 1998.

Joanne Lanahan,

*Director, Health Care Administrative
Sanctions, Office of Inspector General.*

[FR Doc. 98-24878 Filed 9-16-98; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collections Submitted to the Office of Management and Budget for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comments.

SUMMARY: The collection of information described below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of the specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address provided below.

DATES: Consideration will be given to all comments received on or before November 16, 1998. OMB has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by the above referenced date.

ADDRESSES: Comments and suggestions on the requirement should be sent to Rebecca Mullin, Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 860-ARLSQ, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at 703/358-2287, or electronically to rmullin@fws.gov.

SUPPLEMENTARY INFORMATION:

The OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). On Monday, August 24, 1998, the U.S. Fish and Wildlife Service (Service) was given emergency approval

by OMB for collection of information in order to continue the grants programs conducted under the North American Wetlands Conservation Act (Pub. L. 101-233, as amended; December 13, 1989). The assigned OMB information collection control number is 1018-0100, and temporary approval expires in February 1999. The Service is requesting a three year term of approval for this information collection activity. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments are invited on: (1) 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; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents.

Title: Information Collection In Support of Grant Programs Authorized by the North American Wetlands Conservation Act of 1989 (NAWCA).

Approval Number: 1018-0100.

Service Form Number(s): N/A.

Description and Use: The North American Waterfowl Management Plan (NAWMP), first signed in 1986, is a tripartite agreement among Canada, Mexico and the United States to enhance, restore and otherwise protect continental wetlands to benefit waterfowl and other wetland associated wildlife through partnerships between and among the private and public sectors. Because the 1986 NAWMP did not carry with it a mechanism to provide for broadly-based and sustained financial support for wetland conservation activities, Congress passed and the President signed into law the NAWCA to fill that funding need. The purpose of NAWCA, as amended, is to promote long-term conservation of North American wetland ecosystems and the waterfowl and other migratory birds, fish and wildlife that depend upon such habitat through partnerships. Principal conservation actions supported by NAWCA are acquisition, enhancement and restoration of wetlands and wetlands-associated habitat.

As well as providing for a continuing and stable funding base, NAWCA establishes an administrative body, made up of a State representative from each of the four Flyways, three representatives from wetlands

conservation organizations, the Secretary of the Board of the National Fish and Wildlife Foundation, and the Director of the Service. This administrative body is chartered, under the Federal Advisory Committee Act, by the U.S. Department of the Interior as the North American Wetlands Conservation Council (Council). As such, the purpose of the Council is to recommend wetlands conservation project proposals to the Migratory Bird Conservation Commission (MBCC) for funding.

Subsection (c) of Section 5 (Council Procedures) Provides that the " * * * Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section * * *," which are consideration of projects and recommendations to the MBCC, respectively. The means by which the Council decides which project proposals are important to recommend to the MBCC is through grants programs that are coordinated through the Council Coordinator's office (NAWWO) within the Service.

Competing for grant funds involves applications from partnerships that describe in substantial detail project locations and other characteristics, to meet the standards established by the Council and the requirements of NAWCA. The Council Coordinator's office publishes and distributes Standard and Small Grants instructional booklets that assist the applicants in formulating project proposals for Council consideration. The instructional booklets and other instruments, e.g., **Federal Register** notices on request for proposals, are the basis for this information collection request for OMB clearance. Information collected under this program is used to respond to such needs as: audits, program planning and management, program evaluation, Government Performance and Results Act reporting, Standard Form 424 (Application For Federal Assistance), grant agreements, budget reports and justifications, public and private requests for information, data provided to other programs for databases on similar programs, Congressional inquiries and reports required by NAWCA, etc.

In summary, information collection under these programs is required to obtain a benefit, i.e., a cash reimbursable grant that is given competitively to some applicants based on eligibility and relative scale of resource values involved in the projects. The information collection is subject to the Paperwork Reduction Act requirements for such activity, which

includes soliciting comments from the general public regarding the nature and burden imposed by the collection.

Frequency of Collection: Occasional. The Small Grants program has one project proposal submissions window per year and the Standard Grants program has two per year.

Description of Respondents: Households and/or individuals; business and/or other for-profit; not-for-profit institutions; farms; Federal Government; and State, local and/or Tribal governments.

Estimated Completion Time: The reporting burden, or time involved in writing project proposals, is estimated to be 80 hours for a small Grants submission and 400 hours for a Standard Grants submission.

Number of Respondents: It is estimated that 150 proposals will be submitted each year, 70 for the Small Grants program and 80 for the Standard Grants program.

Annual Burden Hours: 37,600.

Dated: September 9, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98-24859 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: James S. Carter, Houston, TX, PRT-002100

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: St. Louis Zoological Park, St. Louis, MO, PRT-001950

The applicant amends its request for a permit to export captive born Black and White Ruffed Lemurs (*Varecia variegata variegata*) to Madagascar for the purpose of enhancement of the survival of the species through re-introduction into the wild. The amendment specifies the addition of two males.

Applicant: Omaha's Henry Doorly Zoo, Omaha, NE, PRT-843167

The applicant requests a permit to export fixed embryo samples from two Siberian Tigers (*Panthera tigris altaica*) for the purpose of enhancement of the survival of the species through scientific research for the captive-breeding program of the AZA Tiger Species Survival Plan.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following applications for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: George Gard, Boynton Beach, FL, PRT-002693

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Foxe Basin polar bear population, Northwest Territories, Canada for personal use taken prior to April 30, 1994.

Written data or comments, requests for copies of any of these complete applications, or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358-2104 or fax 703/358-2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application 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 to the above address within 30 days of the date of publication of this notice.

Dated: September 14, 1998.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98-24908 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Establish Management Bodies for the Development, Implementation, and Management of a Migratory Bird Subsistence Program in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) intends to establish management bodies for the development, implementation, and management of a migratory bird subsistence program in Alaska. This action is the result of the 1997 amendments to the migratory bird treaties with Canada and Mexico approved by the U.S. Senate on October 23, 1997. The amendment to the treaty with Canada requires that indigenous inhabitants of the State of Alaska will have a meaningful role in migratory bird conservation by participating on relevant management bodies. In partnership with the Alaska Department of Fish and Game and the Native Migratory Bird Working Group, the Service will prepare an options document for public review and comment leading to the establishment of the management bodies.

DATES: See SUPPLEMENTARY INFORMATION section for meeting dates.

ADDRESSES: Submit comments regarding the preparation of the options document, to Mimi Hogan, Migratory Bird Subsistence Coordinator, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503; fax 907/786-3641.

FOR FURTHER INFORMATION CONTACT: Mimi Hogan at 907/786-3673.

SUPPLEMENTARY INFORMATION: In 1916 the U.S. Senate ratified the Convention Between the United States and Great Britain (on behalf of Canada) For the Protection Of Migratory Birds. A similar treaty was ratified with Mexico in 1936. The treaties specified a close season on the taking of migratory game birds between March 10 and September 1 of each year. The treaties did not take into account traditional harvests of migratory birds by northern indigenous people during the spring and summer months. This harvest, which had occurred for centuries, was a necessary part of the subsistence lifestyle of the northern people, and continued after the ratification of the treaties. After many years of attempts to change the treaties, amendments to both treaties were approved in 1997, allowing certain

exceptions for the subsistence harvest of migratory birds by indigenous inhabitants of identified subsistence zones in Alaska.

The intent of the amendments is to enable effective actions to be taken to improve migratory bird conservation, and to cause no significant increases in the take of species of migratory birds relative to their continental population sizes. Paragraph 4(b)(ii) of Article II states:

Indigenous inhabitants of the State of Alaska shall be afforded an effective and meaningful role in the conservation of

migratory birds including the development and implementation of regulations affecting the non-wasteful taking of migratory birds and the collection of their eggs, by participating on relevant management bodies.

This notice initiates action to establish management bodies required by the treaty amendments. The options document being prepared will identify, among other things, the number of management bodies needed for effective and efficient management, how the management bodies will be organized, and their roles and responsibilities. The options document will be prepared for

review and public comment by the Native Migratory Bird Working Group, the Alaska Department of Fish and Game, and the U.S. Fish and Wildlife Service. Availability of a draft document for review and a list of public meetings to gather public comment will be announced in the **Federal Register**.

Meetings

In order to receive from the subsistence users ideas regarding the preparation of the decision document, public forums will be conducted in the following Alaska locations during 1998:

Date	City	Location	Time
Sept 22	Nome	Nome Mimi Convention Center	7:00 p.m.
Sept 23	Kotzebue	Alaska Technical Center, Room 170	7:00 p.m.
Sept 29	Fort Yukon	Native Village Building	7:00 p.m.
Oct 5	Allakaket	Allakaket Community Hall	7:00 p.m.
Oct 21	Naknek	Bristol Bay Borough Assembly Chambers	7:00 p.m.
Nov 4	Dillingham	City Council Chambers	7:00 p.m.
Nov 18	Barrow	North Slope Borough Assembly Room	7:00 p.m.

A forum will also be scheduled for the Yukon-Kuskokwim Delta area. Date, time, and location will be announced in the local media when the schedule is final.

Dated: September 10, 1998.

Robyn Thorson,

Deputy Regional Director, Anchorage, Alaska.

[FR Doc. 98-24922 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Approval

The following applicant has applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Rick Jordan, Dripping Springs, Texas, on behalf of the Cooperative Breeding Program for the Crimson-bellied Conure (CB 009). The applicant wishes to amend approved cooperative breeding program CB 009, to include the following species of conure: White-eared conure (*Pyrrhura leucotis leucotis*, *Pyrrhura leucotis emma*); Fiery Shouldered conure (*Pyrrhura egregia*); Rose-crowned conure (*Pyrrhura rhodocephala*); Pearly conure (*Pyrrhura perlata lepida*, *Pyrrhura perlata coerulescens*); Blue-throated conure (*Pyrrhura cruentata*);

Painted conure (*Pyrrhura picta picta*, *Pyrrhura picta roseifrons*); Green-cheeked conure (*Blue mutation*) (*Pyrrhura molinae*). The American Federation of Aviculture maintains responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

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 to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2095); FAX: (703/358-2298).

Dated: September 11, 1998.

Dr. Rosemarie Gnam,

Chief, Branch of Operations, Office of Management Authority.

[FR Doc. 98-24912 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management; Alaska

[AK-962-1410-00-P]

Notice for Publication; Alaska Native Claims Section

AA-9256, AA-9259, AA-9266, AA-9267, AA-9268, AA-9272, AA-9274, AA-9275, AA-9282, AA-9283, AA-9289, AA-9290, AA-9291, AA-9297, AA-9298, AA-9302, AA-9306, AA-9309, AA-9313, AA-9315, AA-9316, AA-9321, AA-9327, AA-10314, AA-10423, AA-11346, and AA-11348

Alaska Native Claims Selection

In accordance with Departmental regulations 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, (ANCSA), 43 U.S.C. 1601, 1613(h)(1), will be issued to the Calista Corporation for 27 sites aggregating approximately 859 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 1 S., R. 104 W.,
T. 3 S., R. 97 W.,
T. 4 S., R. 101 W.,
T. 1 N., R. 94 W.,
T. 1 N., R. 104 W.,
T. 2 N., R. 101 W.,
T. 1 S., R. 105 W.,
T. 3 S., R. 101 W.,
T. 5 S., R. 98 W.,
T. 1 N., R. 101 W.,
T. 1 N., R. 105 W.,
T. 2 N., R. 102 W.,
T. 2 S., R. 104 W.,
T. 4 S., R. 98 W.,

T. 5 S., R. 99 W.,
T. 1 N., R. 102 W.,
T. 2 N., R. 94 W.,

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, 113, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions, shall have until October 19, 1998. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in 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.

Jerri Sansone,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 98-24899 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-910-0777-51]

Iditarod Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of Iditarod Advisory Council meeting.

SUMMARY: The Iditarod Advisory Council will conduct an open meeting Tuesday, October 13, 1998, from 9 a.m. until 4 p.m. The purpose of the meeting is to discuss the council's transition to a non-profit organization to assist in the management of the Iditarod National Historic Trail. The meeting will be held at the Campbell Creek Science Center, 6881 Abbott Loop Road, Anchorage, AK.

Public comments pertaining to management of the Iditarod National Historic Trail will be taken from 1-2 p.m. Written comments may be submitted at the meeting or mailed to the address below prior to the meeting. **ADDRESSES:** Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, Alaska 99513-7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271-5555.

Dated: September 10, 1998.

Nick Douglas,

Field Manager.

[FR Doc. 98-24900 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-020-1310-00]

Notice of Intent for Planning Analyses

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent for Planning Analyses.

SUMMARY: The Jackson Field Office, Eastern States, will prepare a planning analysis (PA) to consider a waiver request of a no occupancy (surface or sub-surface) stipulation attached to an oil & gas lease issued on August 1, 1998. The PA will be prepared in concert with an environmental assessment (EA).

This notice is issued pursuant to Title 40 Code of Federal Regulations (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in 43 CFR Part 1600.

The public is invited to participate in this planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and criteria will be accepted through October 16, 1998.

ADDRESSES: Send comments to Bureau of Land Management, Jackson Field Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206.

FOR FURTHER INFORMATION CONTACT: Quazi T. Islam, Physical Scientist, Jackson District, (601) 977-5400.

SUPPLEMENTARY INFORMATION: The BLM has responsibility to consider a waiver request for no occupancy stipulation for an already leased mineral estate for oil and gas exploration and development. An interdisciplinary team will be used in the preparation of the PA/EA. Preliminary issues, subject to change as a result of public input, are (1) potential impacts of oil and gas exploration and development on the surface resources and (2) consideration of restrictions on lease rights to protect surface resources.

Since two leased tracts are in close proximity, one PA/EA will be prepared to cover both the tracts. Tract locations, along with acreages, are listed below.

Alabama, Tuscaloosa County, Huntsville Meridian,

T 18 S, R 8 W, Section 3, 40 acres more or less;
T 18 S, R 8 W, Section 11, 40 acres more or less.

Due to the limited scope of this PA/EA process, public meetings are not scheduled.

Bruce E. Dawson,

Field Manager, Jackson.

[FR Doc. 98-24877 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-GJ-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-932-1430-01; AA-11716]

Public Land Order No. 7362; Revocation of Geological Survey Order Dated June 29, 1950; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Geological Survey order in its entirety as it affects approximately 1,760 acres of public and National Forest System land withdrawn for Power Site Classification No. 409. The area affected by this order includes public land, National Forest System land, and land that has been conveyed out of Federal ownership, and is no longer needed for the purpose for which it was withdrawn. The public land lies within the boundary of the Kenai National Wildlife Refuge and Kenai Wilderness, and the National Forest System land is within the boundary of the Chugach National Forest.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5049.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Geological Survey Order dated June 29, 1950, which established Power Site Classification No. 409, is hereby revoked in its entirety:

Seward Meridian

Land located within secs. 28 through 32 of T. 5 N., R. 3 W., and secs. 25 through 28, and secs. 33 through 36 of T. 5 N., R. 4 W., more particularly described as:

All lands within 1/4 mile of Kenai River from the mouth of Russian River upstream to the present bridge across Kenai River at

Coopers Landing. This bridge is located at latitude 60°29' N., longitude 149°50' W., approximately.

The area described contains approximately 1,760 acres.

2. The public land within the area described above will remain withdrawn as part of the Kenai National Wildlife Refuge, pursuant to Section 303(4) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1994), and the Kenai Wilderness, pursuant to Section 702(7) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 1132 (1994), and will be subject to the terms and conditions of any other withdrawal or segregation of record. The National Forest System land within the above-described area will continue to be subject to the terms and conditions of the Chugach National Forest reservation and any other withdrawal or segregation of record.

Dated: August 28, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98-24880 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-933-1430-00; IDI-15613 et al.]

Public Land Order No. 7363; Revocation of 4 Executive Orders, 3 Secretarial Orders, and 1 Geological Survey Order; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes 4 Executive orders, 3 Secretarial orders, and 1 Geological Survey order insofar as they affect 8,597.76 acres of lands withdrawn for certain Bureau of Land Management Powersite Classifications and Reserves in the State of Idaho. Of the lands being revoked, 3,634.85 acres will be opened to surface entry. The remaining 4,962.91 acres will remain closed to surface entry and mining due to overlapping withdrawals or the lands having been conveyed out of Federal ownership. All of the lands containing Federally owned minerals have been and will remain open to mineral leasing. The lands still in Federal ownership and not overlapped by other withdrawals, have been and will remain open to mining.

EFFECTIVE DATE: October 19, 1998.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 1387 S. Vinnell Way, Boise,

Idaho 83709, 208-373-3864. A copy of the legal description of the lands involved is available from this location.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The following 4 Executive orders, 3 Secretarial orders, and 1 Geological Survey order are hereby revoked insofar as they affect the lands described in the orders referenced below:

(a) Executive Order dated May 19, 1913, Powersite Reserve No. 358 (IDI-15613);

(b) Executive Order dated May 6, 1919, Powersite Reserve No. 725 (IDI-15619);

(c) Secretarial Order dated December 14, 1926, Powersite Classification No. 160 (IDI-15688);

(d) Secretarial Order dated May 12, 1941, Powersite Classification No. 325 (IDI-15695);

(e) Secretarial Order dated August 2, 1927, Powersite Classification No. 186 (IDI-15711);

(f) Geological Survey Order dated April 18, 1957, Powersite Classification No. 440 (IDI-15797);

(g) Executive Order dated November 5, 1916, Powersite Reserve No. 552 (IDI-21014);

(h) Executive Order dated September 22, 1917, Powersite Reserve No. 638 (IDI-21015);

The areas within the above Secretarial orders, Executive orders, and Geological Survey order aggregate 8,597.76 acres in Elmore, Boise, Fremont, Bonneville, Kootenai, Nez Perce, Custer, and Lemhi Counties.

2. At 9 a.m. on October 19, 1998, the lands referenced in paragraph 1, except those lands overlapped by other withdrawals or conveyed out of Federal ownership, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on October 19, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: August 28, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98-24938 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-958-1430-01; GP8-0125; OR-19001]

Public Land Order No. 7364; Modification and Partial Revocation of Executive Order No. 5907, Dated August 18, 1932; OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies an Executive order to establish a 20-year term as to 40 acres of public land withdrawn for Bureau of Land Management Public Water Reserve No. 146. The land will remain closed to surface entry and non-metalliferous mining. This order also partially revokes the same Executive order insofar as it affects the remaining 438.87 acres. The land does not meet the criteria for a public water reserve. This action will open the land to surface entry and nonmetalliferous mining, unless included in other segregations of record. All of the land has been and will remain open to metalliferous mining and mineral leasing unless included in other segregations of record.

EFFECTIVE DATE: October 19, 1998.

FOR FURTHER INFORMATION CONTACT:

Charles R. Roy, BLM Oregon/ Washington State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-952-6189.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Executive Order No. 5907 dated August 18, 1932, which established Public Water Reserve No. 146, is hereby modified to expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended insofar as it affects the following described land:

Willamette Meridian

T. 38 S., R. 13 E.,
Sec. 35, SW¹/₄ SW¹/₄.

The area described contains 40 acres in Klamath County.

The land described above continues to be withdrawn from settlement, sale, location, or entry under the public land laws and the nonmetalliferous mining laws, to protect Public Water Reserve No. 146. The land has been and will

remain open to leasing under the mineral leasing laws, but will remain closed to metalliferous mining due to another overlapping withdrawal.

2. Executive Order No. 5907 dated August 18, 1932, which established Public Water Reserve No. 146, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

- T. 38 S., R. 13 E.,
Sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 39 S., R. 13 E.,
Sec. 2, lots 3 and 4.
- T. 41 S., R. 23 E.,
Sec. 12, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 13, E $\frac{1}{2}$ W $\frac{1}{2}$.
- T. 38 S., R. 26 E.,
Sec. 10, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 11, S $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 438.87 acres in Klamath and Lake Counties.

3. The following described land will remain closed to surface entry and mining due to an overlapping withdrawal for the Klamath River Reclamation Project:

Willamette Meridian

- T. 38 S., R. 13 E.,
Sec. 35, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 39 S., R. 13 E.,
Sec. 2, lots 3 and 4.

The area described contains 118.87 acres in Klamath County.

4. The following described land will remain closed to mineral leasing and permits due to an overlapping withdrawal for a Bureau of Land Management Wilderness Study Area:

Willamette Meridian

- T. 38 S., R. 26 E.,
Sec. 11, S $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 80 acres in Lake County.

5. At 8:30 a.m. on October 19, 1998, the land described in paragraph 2, except as provided in paragraphs 3 and 4, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on October 19, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. At 8:30 a.m. on October 19, 1998, the land described in paragraph 2, except as provided in paragraphs 3 and 4, will be opened to the location and entry under the United States mining laws for nonmetalliferous minerals, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the

requirements of applicable law. Appropriation of lands described in this order under the general mining laws for nonmetalliferous minerals prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 28, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98-24937 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-934-08-1610-00]

Proposed Resource Management Plan/ Final Environmental Impact Statement; Dixie Resource Area, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 102 of the National Environmental Policy Act of 1969, Section 202 of the Federal Land Policy and Management Act of 1976, and 43 CFR Part 1610, the Proposed Resource Management Plan (RMP)/Final Environmental Impact Statement (EIS), hereafter referred to as the "Proposed Plan", has been prepared for the Dixie Resource Area, Cedar City District, Utah, and is available for a thirty day public review and protest period. The Proposed Plan provides decisions for management of approximately 629,000 acres of public lands and 675,750 acres of Federal mineral estate in Washington County, in southwestern Utah. The Proposed Plan is presented in a condensed final environmental impact statement format that (a) draws upon elements of each of the four alternatives analyzed in the Draft RMP/EIS to formulate the new Proposed Plan, (b) reflects consideration given to public comments on, and corrections to, the Draft RMP/EIS, as well as rewording for clarification, and (c) incorporates an expanded environmental impact analysis section.

FOR FURTHER INFORMATION CONTACT:

Lauren Mermejo, RMP Planning Coordinator, Bureau of Land Management, Dixie Resource Area Office, 345 E. Riverside Drive, St. George, Utah 84790, telephone 435-688-3216.

ADDRESSES: Protests must be addressed to the Director (WO-210), Bureau of Land Management, Attn: Brenda Williams, Resource Planning Team, 1849 C Street, NW., Washington, DC 20240, within 30 days after the date of publication of this notice for the Proposed Plan.

DATES: The Proposed Plan may be protested. The protest period will commence with the date of publication of a Notice of Filing by the Environmental Protection Agency, which is expected to be on September 18, 1998. Protests must be submitted on or before October 17, 1998.

SUPPLEMENTARY INFORMATION: The Proposed Plan presents decisions for managing public lands for the following resource categories or uses: Lands (including acquisition, transfer, easement acquisition, and rights-of-way), Energy and Minerals (including fluid minerals, locatable minerals, and mineral materials), Transportation, Air Quality, Soil and Water, Riparian, Vegetation (including composition and special status species), Fish and Wildlife Habitat (including special status species), Livestock Grazing, Forestry, Recreation, Off-Highway Vehicles, Visual, Wilderness, Cultural and Paleontological, Hazardous Wastes, Fire, and Special Emphasis Areas (including Wild and Scenic Rivers, Areas of Critical Environmental Concern [ACECs], Native American Coordination, and Zion National Park Coordination).

The Proposed Plan brings forth ten ACECs for designation that BLM has determined to require special management to prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems. In addition, there are portions of five river segments that BLM has concluded it would recommend as suitable for Congressional designation under the Wild and Scenic Rivers Act. This Proposed Plan promotes opportunities for community based partnerships and collaborative processes for successful and effective management of public lands into the future.

The Dixie Resource Area Draft RMP/EIS was released for public review and comment in October of 1995 and was followed by a seven month comment period. The Draft RMP/EIS analyzed

four alternatives to managing public lands in Washington County, Utah. The Dixie Resource Area Office received over 800 comment letters on the Draft RMP/EIS from local, state and federal governments, interest groups, and the public at large. Major concerns brought forth from proposed decisions of the Draft RMP/EIS included wild and scenic river issues, off-highway vehicle management designations, visual resource protection zones, rights-of-way restrictions, threatened and endangered species protection, the Virgin River and its associated resources, as well as, potential reservoir development, among others. Since the release of the Draft RMP/EIS, public meetings, workshops, mailings, and briefings have been conducted to solicit comments, new information, and ideas for the Proposed Plan.

The Proposed Plan responds to public comments received on the Draft RMP/EIS. The Proposed Plan also corrects errors in the Draft RMP/EIS identified through the public comment process and internal BLM review. The Proposed Plan and associated analysis presents a refined and modified version of the Preferred Alternative and the accompanying impact analysis contained in the Draft RMP/EIS. The Proposed Plan can be used in conjunction with the Draft RMP/EIS to facilitate review of the initial four alternatives. The description of the affected environment and detailed descriptions of the alternatives contained in the Draft RMP/EIS, as well as some of the appendices, are referenced but not reproduced in the Proposed Plan.

Copies of the Proposed Plan are available from the Dixie Resource Area Office, 345 E. Riverside Drive, St. George, Utah, 84790, 435-688-3216. Public reading copies will be available for review at all government-document depository libraries, and at the following BLM locations: Office of Public Affairs, Main Interior Building, 18th and C Streets N.W., Washington, DC 20240; Information Access Center (4th Floor), Utah BLM State Office, 324 S. State Street, Salt Lake City, Utah, 84111; Cedar City District Office, 176 East DL Sargent Drive, Cedar City, Utah 84720; and Dixie Resource Area Office, 345 East Riverside Drive, St. George, Utah 84790. Background information and reference materials used in developing the Proposed Plan are available for review in St. George at the Dixie Resource Area Office.

Written protests on the Proposed Plan will be accepted for 30 days following the date the Environmental Protection Agency published the Notice of Filing of

this document in the **Federal Register**. It is anticipated that the filing date will be on September 18, 1998, thus ending the public review/protest period on October 17, 1998, and the Governor's 60-day consistency review on November 16, 1998. Any part of this Proposed Plan may be protested only by parties who participated in the planning process. Protests must pertain to issues that were identified in the Draft RMP/EIS or through the public comment process. Protests must be addressed to the BLM Director at the address listed under **ADDRESSES**. The protest must be specific and contain the following information: —The name, mailing address, telephone number and interest of the person filing the protest; —A statement of the issue(s) being protested; —A statement of the part(s) of the proposed amendment being protested, and a citing of pages, paragraphs, maps, etc., of the Proposed Plan, where practical.; —A copy of all documents addressing the issue(s) that were submitted by the protestor during the planning process; and —A concise statement explaining why the BLM State Director's proposed decision is believed to be in error.

At the end of the 30-day protest period, the Proposed Plan, excluding any portion under protest will become final.

Approval will be withheld on any portion of the plan under protest until final action has been completed on such protest.

Dated: September 9, 1998.

G. William Lamb,
State Director, Utah.

[FR Doc. 98-24898 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-DQ-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-960-1420-00] ES-50148, Group 32, Illinois

Notice of Filing of Plats of Survey; Illinois

The plats of the dependent resurvey of a portion of the east and north boundaries, portions of the subdivisional lines and the survey of the subdivision of section 4, and the Lock and Dam No. 26 acquisition boundary, Township 6 North, Range 13 West, Third Principal Meridian, Illinois, and the dependent resurvey of portions of the subdivisional lines and the survey of the Lock and Dam No. 26 Acquisition

Boundary, Township 7 North, Range 13 West, Third Principal Meridian, Illinois, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on October 19, 1998.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of either survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., October 19, 1998.

Copies of the plats will be made available upon request and prepayment of the reproduction fee of \$2.75 per copy.

Dated: September 8, 1998.

Stephen G. Kopach,
Chief Cadastral Surveyor.

[FR Doc. 98-24940 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-GJ-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-957-00-1420-00: G8-0309]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 21 S., R. 3 W., accepted July 31, 1998
T. 26 S., R. 3 W., accepted September 2, 1998
T. 25 S., R. 4 W., accepted September 1, 1998
T. 37 S., R. 4 W., accepted July 28, 1998
T. 33 S., R. 5 W., accepted September 1, 1998
T. 29 S., R. 8 W., accepted September 2, 1998
T. 22 S., R. 9 W., accepted July 31, 1998
T. 31 S., R. 14 W., accepted July 14, 1998
T. 29 S., R. 15 W., accepted July 24, 1998
T. 33 S., R. 15 W., accepted July 24, 1998

If the protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files on the Oregon State Office, Bureau of Land Management, 1515 S.W., 5th Avenue, Portland, Oregon 97201, and

will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision. **FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, (1515 S.W., 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: September 9, 1998.

Sherrie L. Reid,

Acting Chief, Branch of Realty and Records Services.

[FR Doc. 98-24939 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intention To Extend Public Review Period for National Park Service Reference Manual #41: Wilderness Preservation and Management

AGENCY: National Park Service, Interior.
ACTION: Public notice.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions to a three-level system consisting of: (1) NPS Management Policies; (2) Director's Orders; and (3) Reference Manuals/ Handbooks and other helpful information. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, this information is being made available for public comments. While the original 30-day public review period for this document ended on August 17, 1998, an additional 30-day public review period will be implemented and end on September 30, 1998.

DATES: Written comments will be accepted until September 30, 1998.

ADDRESSES: The draft Reference Manual #41 is available on the Internet at: <http://www.nps.gov>. The specific link can subsequently be reached by opening: "Infozone," "Reference Desk," "Director's Orders." Reference Manual

#41 is included under sub-title "Draft Guidance Documents." Requests for copies and written comments should be sent to Jim Walters, National Park Service Deputy Wilderness Program Coordinator, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87504-0728.

FOR FURTHER INFORMATION CONTACT: Jim Walters at 505 988-6022 (fax) 505 988-6123, or Wes Henry at 202 208-5211.

SUPPLEMENTARY INFORMATION:

Table of Contents: Reference Manual #41: Wilderness Preservation and Management

I. Background and Purpose

The purpose of Reference Manual #41: Wilderness Preservation and Management is to provide national park managers with the information they need to understand the laws and policies affecting the NPS wilderness resource and guidance for the application of the edicts into the day-to-day and long-term preservation of these resources. The Reference Manual contains: (1) An update of the NPS Management Policies pertaining to wilderness; (2) the Director's Orders intended to assist managers in the application of these policies, and (3) specific detailed references and background information affecting the Service's wilderness resource.

II. Legislative Guidance Applicable to NPS Wilderness Preservation

This information is intended to provide park managers and the public with an understanding of the primary laws regulating the wilderness resource. This discussion includes: the relationship between the Wilderness Act and the NPS Organic Act, the clarification of Section 4(a)(3) of the Wilderness Act which is often misinterpreted by park managers, the implication of the Redwood Act Amendments to the Service's wilderness program, and an explanation of the Eastern Wilderness Act as it applies to the National Park Service.

III. Revised Management Policies Guiding Wilderness Preservation and Management (Level One)

The "Level One" wilderness policy statements will revise and update previous policies included in Chapter 6 of the 1988 Wilderness Policies handbook. These revised policies include general statements addressing: wilderness characteristics and values, the process for reviewing potential wilderness additions, general wilderness policies, consistency of the Service's wilderness program, zoning,

accountability and responsibility, management plans, the minimum requirement process, monitoring strategies, signing, research protocols, NPS administrative facilities, fire management, cultural resources, environmental compliance standards, general public use, commercial services, special events, grazing and livestock driveways, rights-of-way and mineral development and public education standards.

IV. Director's Order #41 (Level Two)

The "Level Two" Director's Order are intended as more detailed guidance and standards for managers to use in the application of the revised policy statements. Director's Order #41 will be issued by the NPS Associate Director-Operations and Parks as required standards at which the respective programs and functions must be managed within NPS wilderness. These program, identified as "Critical Issues" include: wilderness management plan requirements, procedures for applying the "minimum requirement" concept, interagency coordination, cultural resource management, climbing protocols, fire management, interpretation and education, mineral development, research and other scientific uses, wilderness use by persons with disabilities, special events, training requirements, and the administration of commercial services in wilderness.

V. Appendices

The appendices of the Level 3 Reference Manual are intended as a reference and bibliography for wilderness managers. This information includes: a glossary of wilderness terms, the text of the Wilderness Act, the *Wilderness Access Decision Tool* (not included in the draft due to bulk of the appendix document), examples of minimum requirement decision tools, the minimum requirements of a wilderness management plan, the Alaska National Interest Lands Conservation Act (not included in draft due to bulk of this Act), and a list of suggested readings relating to wilderness management.

Dated: August 18, 1998.

Maureen Finnerty,

Associate Director, Operations and Education.

[FR Doc. 98-24858 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act (CAA)

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States v. Beshara Management, et al.*, No. 5:97CV123 (N.D. W. Va.), was lodged on July 27, 1998, with the United States District Court for the Northern District of West Virginia.

The Consent Decree resolves the claims of the United States against the Defendants Beshara Management Inc., Riverside Plaza Partnership, Edward C. Beshara, Fred M. Beshara, and James Beshara, in connection with their operation of a renovation project carried out at the Riverside Plaza Shopping Center, a strip mall owned by the Defendants, located on Route 2 in New Martinsville, West Virginia. The Riverside Plaza project allegedly resulted in the unlawful removal and handling of asbestos-containing materials. The United States sought injunctive relief and the assessment of civil penalties against the Defendants for violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos, promulgated pursuant to Sections 101, 112, 114, 116 and 301 of the Clean Air Act, 42 U.S.C. 7401, 7412, 7414, 7416 and 7601. Under the proposed Consent Decree, Defendants will be permanently enjoined from any future violations of the asbestos NESHAP at Riverside Plaza Shopping Center, and will pay to the United States the sum of \$105,000.00 in civil penalties.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Beshara Management, et al.* DJ # 90-5-2-1-2114 (N.D. W. Va.) Comments may also be addressed to Douglas J. Snyder, U.S. Environmental Protection Agency, Office of Regional Counsel, 1650 Arch Street, Philadelphia, PA 19103.

The Consent Decree may be examined and copied at the Office of the Clerk, U.S. District Court for the Northern District of West Virginia; or at the Region III Office of the Environmental Protection Agency, c/o, Douglas J. Snyder, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Consent Decree may also be obtained in person or by mail from the Consent Decree Library,

1120 G Street, NW, 3rd Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$2.75 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Environmental Enforcement Section.

[FR Doc. 98-24935 Filed 9-16-98; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Pursuant to 28 CFR 50.7 and 42 U.S.C. 9622(d), notice is hereby given that on August 12, 1998, a proposed Consent Decree in *United States v. Coltec Industries, Inc., et al.*, Civil Action No. 98-10034 was lodged with the United States District Court for the Eastern District of Michigan.

The United States has asserted, in a civil complaint under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, that the Defendants, Coltec Industries, Inc., Illinois Tool Works, Inc., Mitchell Manufacturing Group, Inc., StageRight Corporation, Textron, Inc., and United Technologies Automotive, Inc., are potentially responsible parties (PRPs) at the Clare Water Supply Superfund Site in the City of Clare, Clare County, Michigan.

Under the proposed Consent Decree, the Defendants have agreed to pay \$510,756.00 to the Hazardous Waste Superfund for past costs incurred through October 31, 1997, to pay future response costs, and to perform Work for Operable Unit Two of the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Coltec Industries, Inc., et al.*, Civil Action No. 98-10034, D.J. Ref. 90-11-2-1212.

The Consent Decree may be examined at the Office of the United States Attorney for the Eastern District of Michigan, 211 West Fort Street, Suite 2001, Detroit, MI 48226-3211; at the Region 5 Environmental Protection Agency Library, Reference Desk, 77 W.

Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, 202-624-0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of \$110.25 (inclusive of Appendices) (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 98-24936 Filed 9-16-98; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration**Working Group Studying; Retirement Plan Leakage—Cashing In Your Future from ERISA Employer-Sponsored Pension Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting**

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Tuesday, October 6, 1998, of the Retirement Plan Leakage—Cashing in Your Future—Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans. The group is studying pre-retirement distributions, including in-service distributions, hardship loans and participant loans from ERISA employer-sponsored pension plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for Working Group members to draft their report and/or recommendations on the import of these "pension preservation" issues for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before October 1, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their

request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 1, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 1.

Signed at Washington, DC this 10th day of September, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-24860 Filed 9-16-98; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Small Businesses: How to Enhance and Encourage the Establishment of Pension Plans; Advisory Council on Employee Welfare and Pension Benefits Plans

Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Monday, October 5, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying the obstacles to why small businesses are not establishing retirement vehicles for their employees when so many different savings arrangements are available. The Working Group also is focusing on how to encourage these businesses to establish such pension plans.

The session will take place in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 4:00 p.m., is for Working Group members to draft their report and/or recommendations their report for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before October 1, 1998, to Sharon

Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 1.

Signed at Washington, D.C. this 10th day of September 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-24861 Filed 9-16-98; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Disclosure of the Quality of Care in Health Plans Advisory Council on Employee Welfare and Pension Benefits Plans

Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Monday, October 5, 1998, in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to begin drafting their report and/or recommendations for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to

the topic by submitting 20 copies on or before October 1, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 1.

Signed at Washington, DC this 10th day of September, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-24862 Filed 9-16-98; 8:45 am]

BILLING CODE 4510-29-M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Tuesday, November 10, 1998, from 8:30 a.m. to 10:00 a.m. The public sessions of the Commission and the Committee meeting will be held on Tuesday, November 10, from 10:00 a.m. to 6:00 p.m., on Wednesday, November 11, from 8:30 a.m. to 6:00 p.m., and on Thursday, November 12, from 8:30 a.m. to 12:30 p.m.

PLACE: The Double Tree Hotel, 1230 Congress Street, Portland, Maine, 04102. Phone number 800/989-3856. Fax number 201/761-1560.

STATUS: The executive session will be closed to the public. At it, matters relating to international negotiations in process, personnel, and the budget of the Commission and will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed as time permits and as determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. The focus of the meeting will be on species that occur in waters along the East Coast of the United States. While subject to change, major issues that the Commission plans to consider at the meeting include: the conservation of northern right whales, research and management issues related to the Gulf of Maine population of harbor porpoise, New England pinniped-fishery interactions, humpback whales, sources and effects of anthropogenic noise in the marine environment, whale watching activities in New England, bottlenose dolphins in coastal Atlantic waters, and research related to the effects of the eastern tropical Pacific tuna fishery on dolphins.

CONTACT PERSON FOR MORE INFORMATION: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 905, Bethesda, MD, 20814, 301/504-0087.

Dated: September 14, 1998.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 98-25024 Filed 9-15-98; 10:40 am]

BILLING CODE 6820-01-M

NATIONAL SCIENCE FOUNDATION

50th Anniversary Public Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: 50th Anniversary Public Advisory Committee (5213).

Date and Time: October 15, 1998—(9:00 a.m.–5:00 p.m.) and October 16, 1998—(9:00 a.m.–Noon).

Place: NSF Headquarters, 4201 Wilson Boulevard, Suite 1235, Arlington, VA.

Type of Meeting: Open.

Contact Person: Ms. Mary Bullock, Section Head-Special Projects Section, Office of Legislative and Public Affairs, Suite 1245, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1070.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation in highlighting 50 years of U.S. achievements in science and engineering research and education, and in increasing awareness of the role of U.S. support of science and engineering plays in enabling world leadership in these fields.

Agenda: Public Advisory Committee members will receive their charge to encourage celebrations of NSF's 50th anniversary in the research and education

communities with which they are connected. Members will discuss ideas and purpose plans for anniversary activities such as symposia among academic, government and other leaders; public outreach events to engage communities of the general public in activities that build interest in science and technology, and other means of increasing public and understanding and appreciation of science and technology.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24947 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel in Earth Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Proposal Review Panel in Earth Sciences (1569).

Date and Time: October 7-9, 1998; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 310.

Type of Meeting: Closed.

Contact Person: Dr. Leonard E. Johnson, Program Director, Continental Dynamics Program, Division of Earth Sciences, Room 785, National Science Foundation, 4210 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306-1559.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Continental Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24949 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Division of Environmental Biology; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meetings.

Name Advisory Panel for Ecological Studies (1751).

Date & Time: October 13-16, 1998, 8:30 am-5:00 pm each day.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Scott L. Collins, Program Director, Ecological Studies, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1483.

Minutes: May be obtained from the contact person listed above.

Agenda: To review and evaluate Ecology proposals as part of the selection process for awards.

Name Advisory Panel for Ecological Studies (1751).

Date & Time: October 6-9, 1998, 8:30 am-5:00 pm each day.

Place: Room 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Penelope Firth, Program Director, Ecological Studies, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1479.

Minutes: May be obtained from the contact person listed above.

Agenda: To review and evaluate Ecosystem Studies proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24946 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: October 15-16, 1998, 9:00 a.m. to 5:00 p.m.

Place: Room 310, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Emmeline Edwards, Program Director, Behavioral Neuroscience; Dr. Roy White, Program Director, Computational Neuroscience; Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306-1416.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 16, 1998; 11:00 a.m. to 12:00 p.m., to discuss goals and assessment procedures. Closed Session: October 15, 1998; 9:00 a.m. to 5:00 p.m.; October 16, 9:00 a.m. to 11:00 a.m., and 12:00 p.m. to 5:00 p.m. To review and evaluate Behavioral Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(b)(4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24948 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

GPU Nuclear, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

This document corrects a notice appearing in the **Federal Register** on September 10, 1998 (63 FR 48527). This action is necessary to correct an erroneous date.

On page 48528, in the center column, in the fourth complete paragraph, in the first line, the date "October 9, 1998," should be corrected to read "October 13, 1998."

Dated at Rockville, Maryland, this 11th day of September 1998.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 98-24924 Filed 9-16-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-3453]

Proposed Cleanup of the Atlas Uranium Mill Tailings; Notice of Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of upcoming public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) is conducting a public meeting on September 16, 1998, to discuss the proposed cleanup of the Atlas uranium mill tailings at its site near Moab. The meeting location is the Grand County High School Auditorium, 439 S. 400 East, Moab, Utah. The meeting will begin at 7:30 p.m.

Atlas, an NRC licensee, has submitted a plan to stabilize its mill tailings on site. The NRC has not yet made a final determination on the acceptability of this plan. The NRC Staff will make a presentation at the beginning of the meeting to provide background on NRC's regulatory review process and the progress of the review since the last public meeting held in Moab in February 1996. The meeting will then be open for members of the public to ask questions.

FOR FURTHER INFORMATION CONTACT:

Myron Fliegel, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-7238; e-mail. mhfl@nrc.gov

Dated at Rockville, Maryland, this 11th day of September, 1998.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98-24925 Filed 9-16-98; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8681]

White Mesa Uranium Mill; Notice of Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of upcoming public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) is conducting a public meeting in Blanding, Utah, on September 17, 1998, to discuss the

regulatory oversight of the International Uranium Corporation's nearby White Mesa uranium mill. The meeting will be at the San Juan County Library, 25 W. 300 South Street, beginning at 7:30 p.m.

White Mesa is an NRC-licensed mill that produces uranium for commercial nuclear power plants. The focus of the meeting will be on NRC oversight of the mill, with particular emphasis on how NRC will evaluate any future applications from International Uranium to process uranium-bearing material other than natural ores, from off-site locations.

FOR FURTHER INFORMATION CONTACT: James Park, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-6699; e-mail. jrp@nrc.gov.

Dated at Rockville, Maryland, this 11th day of September, 1998.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98-24923 Filed 9-16-98; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23433; 812-10634]

Emerging Markets Growth Fund, Inc.; Notice of Application

September 11, 1998.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 22(e) of the Act and rule 22c-1 under the Act.

SUMMARY OF APPLICATION: The order would permit applicant Emerging Markets Growth Fund, Inc. ("EMGF") to operate as a registered open-end investment company that would redeem its shares at monthly intervals.

FILING DATES: The application was filed on April 25, 1997, and amended on July 31, 1998.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on

October 6, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Capital International, Inc., 11100 Santa Monica Boulevard, Los Angeles, CA 90025.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Attorney, at (202) 942-0572 or Christine Y. Greenlees, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (telephone (202) 942-8090).

Applicant's Representations

1. EMGF, a Maryland corporation, is a closed-end management investment company registered under the Act. EMGF's shares are registered under the Securities Act of 1933 (the "1933 Act"). Capital International, Inc. (the "Adviser"), registered under the Investment Advisers Act of 1940, serves as EMGF's investment adviser. EMGF's investment objective is to seek long-term capital growth by investing in equity securities of issuers in developing countries.

2. EMGF's shares are not listed on any securities exchange (except for a nominal listing on the Luxembourg Stock Exchange). EMGF offers new shares for sale on a limited basis to investors that meet certain suitability criteria prescribed by EMGF. EMGF's current investor suitability criteria provide that a prospective investor that is a "company" (as defined in section 2(a)(8) of the Act) must have total assets in excess of \$5 million and that each prospective investor that is a natural person must be an "accredited investor" within the meaning of Regulation D under the 1933 Act. Under EMGF's articles of incorporation, outstanding shares of EMGF may be transferred only to persons who meet this suitability criteria. Because of these restrictions on transferability, and EMGF's concern that its shares, if listed on a securities exchange, might trade at a discount to their net asset value ("NAV"), a

secondary market in EMGF's shares has not developed.

3. EMGF would like to be able to offer its shareholders an opportunity to dispose of their shares at NAV should they wish to do so, without unduly disrupting EMGF's portfolio or interfering with EMGF's investment objectives. EMGF states that it considered making periodic tender offers to its shareholders, but believes that the process is cumbersome, expensive and of limited benefit to the shareholders. EMGF also considered relying on rule 23c-3 under the Act, the "closed-end interval fund" rule, that permits closed-end funds to make periodic repurchase offers to their shareholders as an alternative to periodic tender offers. EMGF concluded that this alternative was undesirable because of the rule's restrictions on the frequency and amount of repurchase offers. EMGF also states that its portfolio, which consists primarily of equity securities of issuers in emerging markets, is not sufficiently liquid to enable EMGF to operate as a traditional open-end fund that redeems its shares daily.

4. EMGF thus proposes to convert into a registered open-end investment company. EMGF would redeem its shares monthly, as further described in this notice ("Redemption Policy"). The Redemption Policy would be a fundamental policy of EMGF, changeable only by vote of a majority of the outstanding voting securities of EMGF, as defined in the Act. EMGF's existing shareholders have approved the Redemption Policy. EMGF's board of directors (the "Board"), including a majority of directors who are not "interested persons," as defined in section 2(a)(19) of the Act, also has approved the Redemption Policy.

5. Under EMGF's proposal, EMGF's new investors will be limited to "qualified purchasers," within the meaning of section 2(a)(51) of the Act and the rules and SEC interpretive positions under the Act.¹ Existing shareholders who are not qualified purchasers will be permitted to remain shareholders of EMGF and to purchase additional shares. Prior to relying on the requested order, EMGF will implement procedures to assure that shares are not transferred by shareholders to third parties that are not qualified purchasers. EMGF's current articles of incorporation provide that transfer to EMGF's shares may be made only to those investors

that satisfy EMGF's suitability criteria specified by the Board. As provided for in EMGF's articles of incorporation, the Board will amend the current share transfer restrictions to provide that no shareholder may transfer shares to any other person or entity that is not a qualified purchaser. EMGF would seek to enforce the transfer restriction against any shareholder who attempted to transfer shares in violation of the restriction. The Board may not further amend the share transfer restrictions to permit transfers to persons or entities other than qualified purchasers without the prior approval of the Commission.

6. Under the Redemption Policy, EMGF would accept redemption requests on or before the close of business on the first business day of each month (the "Redemption Request Deadline"). (The first Redemption Request Deadline will occur no sooner than 45 days after EMGF's prospectus is mailed to the shareholders. The prospectus will include disclosure of the change in share transfer restrictions discussed above.) Any redemption request received during the course of any calendar month would be effective as of the next Redemption Request Deadline. Redemption requests received prior to a Redemption Request Deadline would be revocable until the Redemption Request Deadline. On the Redemption Request Deadline, redemption requests would become irrevocable.² EMGF will price the shares for redemption at the close of business on the last business day of that month (the "Redemption Pricing Date"). EMGF would pay the proceeds of redemption requests within seven calendar days after the Redemption Pricing Date (the "Redemption Payment Date").

7. The Board will have the right to suspend the Redemption Pricing Date and the Redemption Payment Date only in accordance with section 22(e) of the Act.³ The Board will have the right to accelerate the Redemption Pricing Date and the Redemption Payment Date only if doing so would be in the best interests

² EMGF states that the irrevocability of redemption requests after the Redemption Request Deadline is necessary to permit the Adviser to make arrangements to meet redemption requests made as of that date with the least disruption of EMGF's portfolio.

³ Section 22(e) generally provides that the right of redemption may not be suspended and the date of payment may not be postponed except for a period during which the New York Stock Exchange ("NYSE") is closed or trading on the NYSE is restricted, during certain emergencies, or for periods as permitted by Commission order. Section 22(e) also provides that the Commission shall by rules and regulations determine the conditions under which (i) trading will be deemed to be restricted and (ii) an emergency will be deemed to exist.

¹ Section 2(a)(51) of the Act generally defines qualified purchasers as natural persons who own \$5 million of investments and institutions that own or manage on a discretionary basis \$25 million of investments.

of EMGF's shareholders and only upon the following conditions: (a) the Redemption Payment Date will occur within seven days of the accelerated Redemption Pricing Date; and (b) the Board finds that the accelerated Redemption Pricing Date is not likely to result in any significant dilution of interests of the redeeming or the remaining shareholders.⁴

8. EMGF states that at least 85% of its assets must either (a) mature by the next Redemption Payment Date; or (b) be capable of being sold between the Redemption Request Deadline and the Redemption Payment Date at approximately the price used in computing EMGF's NAV (the "Liquidity Standard"). The Liquidity Standard would be a fundamental policy of EMGF, changeable only by vote of a majority of the outstanding voting securities of EMGF, as defined in the Act.

9. EMGF will accept orders to purchase its shares on the last business day of each week and month. The purchase price will be the NAV next determined following receipt of the purchase order.⁵ To protect investors, purchase payments received by EMGF before the last business day of the week or month will be placed in a segregated account for the benefit of the purchaser.

10. EMGF states that any change in the Redemption Policy, the Liquidity Standard, or the operation of EMGF as described in the application that is not otherwise permitted by the Act and the rules under the Act will require approval by the SEC.

Applicant's Legal Analysis

1. Section 22(e) of the Act provides that a registered investment company may not suspend the right of redemption, or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of the security to the company. EMGF requests an exemption from section 22(e) to permit EMGF to redeem its shares on a monthly cycle.

2. EMGF states that the primary purpose of section 22(e) was to address the following abuses: (a) the lack of provisions in a fund's governing documents concerning redemption rights; (b) the ability of fund management to restrict redemptions

without shareholder approval; and (c) inadequate or misleading disclosure in fund documents and marketing materials concerning redemption rights. EMGF states that the Redemption Policy will not raise the possibility of any of these abuses. EMGF states that its existing shareholders have approved the Redemption Policy, and that the Redemption Policy will be changeable only by a majority vote of its shareholders and only upon approval by the SEC or its staff. EMGF further states that the Redemption Policy will be stated on the cover of its prospectus and in any marketing materials and that EMGF will not hold itself out as a "mutual fund." EMGF also states that its new investors will be limited to qualified purchasers, who EMGF asserts are unlikely to misunderstand their limited redemption opportunity. EMGF notes that Congress has determined that qualified purchasers are sophisticated investors who do not need the protections of the Act. Finally, as noted above, EMGF states that it would suspend the Redemption Pricing Date and the Redemption Payment Date only in accordance with section 22(e) of the Act.

3. EMGF asserts that the Liquidity Standard will enable EMGF to meet redemptions without unduly disrupting its portfolio. Any change in EMGF's Liquidity Standard will require approval by a majority of EMGF's shareholders and the SEC. In addition, EMGF states that it will comply with rule 2a-4 under the Act, which concerns the valuation of the portfolio securities of an open-end investment company, and any related SEC or staff interpretations or releases (except to the extent that EMGF may have its assets invested according to the Liquidity Standard).

4. Rule 22c-1 under the Act generally requires an open-end investment company to calculate its NAV each day on which an order to purchase or redeem its shares is received, and to price its shares for sale or redemption at a price next determined after receipt of a redemption request. EMGF requests relief from rule 22c-1 to postpone pricing its shares tendered for redemption on or before a Redemption Request Deadline until the next Redemption Pricing Date.

5. EMGF asserts that rule 22c-1 was designed primarily to prevent the practice of "backward pricing" of fund shares. EMGF argues that its proposal does not raise this concern because shares would be priced after a redemption request is received. EMGF also asserts that its proposed pricing timeline is consistent with the Act

because it is designed to treat all investors in EMGF equally and avoid any dilution of non-redeeming shareholders' interests. EMGF further asserts that its Redemption Policy will provide its existing shareholders with a greater opportunity to dispose of their shares than they have had in the past. In addition, EMGF states that since new investors will be qualified purchasers, they will be in a position to understand any risks associated with EMGF's pricing timeline.

6. EMGF also requests relief from rule 22c-1 to permit it to calculate its NAV and price shares for purchase only on the days on which EMGF actually will accept requests to purchase its shares (*i.e.*, on the last business day of each week and month). To protect investors, funds received prior to the date on which they will be invested in EMGF will be placed in a segregated account for the benefit of the purchaser.

7. Section 6(c) under the Act permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act. For the reasons discussed above, EMGF submits that the requested order meets these standards. EMGF states that its proposal will enable it to offer its shareholders an opportunity to dispose of their shares at NAV should they wish to do so, without unduly disrupting EMGF's portfolio or interfering with EMGF's investment objectives.

Applicant's Conditions

EMGF agrees that any order of the SEC granting the requested relief will be subject to the following conditions:

1. EMGF's shareholders will have approved the Redemption Policy prior to EMGF's relying on the requested order (the "Reliance Date").

2. Any new investor purchasing EMGF's shares on or after the Reliance Date will be a "qualified purchaser" within the meaning of Section 2(a)(51) of the Act and the rules and SEC or staff interpretive positions under the Act.

3. Prior to the Reliance Date, the Board, including a majority of the disinterested directors, will have adopted procedures designed to assure that EMGF will comply with the terms and conditions of the requested order. The Board will review these procedures at least annually and approve such changes as it deems necessary.

4. EMGF will not hold itself out as a "mutual fund" and will disclose its Redemption Policy on the cover page of

⁴ The Board may not suspend the Redemption Request Deadline or the right to make redemption requests.

⁵ EMGF will maintain an "800" telephone number (or will use an equivalent method) to provide shareholders with ready access to updated information on the NAV of EMGF's shares.

its prospectus and in any marketing materials.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24959 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26916]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

September 11, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 5, 1998, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 5, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc., et al.

(70-9353)

American Electric Power Company, Inc. ("AEP"), a registered holding company, and AEP Energy Services, Inc. ("AEPES") and AEP Resources, Inc. ("Resources"), wholly owned non-utility subsidiaries of AEP (collectively, "Applicants"), all located at 1 Riverside Plaza, Columbus, Ohio 43215, have filed an application-declaration under

sections 6(a), 7, 9(a), 10 and 12(b) of the Act, and rule 54 under the Act.

By orders dated September 13, 1996 (HCAR No. 26572) and September 27, 1996 (HCAR No. 26583) (collectively, "1996 Orders"), this Commission authorized AEP to form one or more direct or indirect nonutility subsidiaries to broker and market certain energy commodities. Applicants now propose to acquire, through December 31, 2003 (the "Authorization Period"), certain non-utility energy assets in the United States (collectively, "Energy Assets").¹ Energy Assets would be incidental to, and would assist Applicants and their subsidiaries in connection with the energy trading, marketing and brokering activities authorized in the 1996 Orders.²

In addition, Applicants propose to acquire the equity securities of companies substantially all of whose physical properties consist of Energy Assets ("Energy Asset Companies"). Investments in Energy Assets or Energy Asset Companies would not exceed \$800 million ("Investment Limitation").

Furthermore, AEP proposes to issue securities to finance the acquisition of Energy Assets or of the equity securities of Energy Asset Companies. Securities which AEP proposes to issue would include common stock, long-term debt securities and guaranties of indebtedness issued by AEPES, Resources and any existing or new, direct or indirect subsidiary of AEPES or Resources ("Applicant Subsidiaries"). These guaranties would also include guaranties of securities issued by any existing or new, direct or indirect special purpose financing subsidiary of Applicants organized specifically for the purpose of financing the acquisition of Energy Assets or of the equity securities of Energy Asset Companies ("Special Purpose Subsidiary"). In addition, Applicants request authority during the Authorization Period For Applicant Subsidiaries, as well as any Special Purpose Subsidiary, to issue debt or equity securities to finance these acquisitions, including guarantees as appropriate, to the extent such issuances are not exempt under rule 52 or rule 45(b).

The aggregate outstanding amount of all financings to acquire Energy Assets, or equity securities of Energy Asset

¹ Energy Assets include natural gas production, gathering, processing, storage and transportation facilities and equipment, liquid oil reserves and storage facilities, and associated facilities.

² They would also be incidental to, and used to assist any other energy trading, marketing or brokering subsidiary later acquired by Applicants in connection with these activities.

Companies, will not exceed the Investment Limitation. Borrowings incurred or guaranteed would be evidenced by notes having maturities of not greater than 15 years from the date of issue. The financing authority sought is in addition to the financing authority granted to AEP by Commission order dated May 4, 1988 (HCAR No. 26867).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24958 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40428; File No. SR-AMEX-98-23]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc. Relating to Integrated Market Making for Fund Shares

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 30, 1998, the American Stock Exchange, Inc. (the "Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rules 175 and 958 to allow the trading of Fund Shares, options on Fund Shares and related index options at the same location on the Exchange's trading floor and by the same specialists and registered traders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Since 1992, the Exchange has listed and traded, pursuant to its equity trading rules, a number of products that derive their value from indexes or portfolios of other equity securities. These products include Exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies that hold securities based on an index or a portfolio of securities (These products are collectively referred to hereinafter as "Fund Shares").³

The Exchange proposes to amend Exchange Rules 175 and 958 to allow the trading of Fund Shares, options on Fund Shares and related index options at the same location or adjacent locations on the Exchange's trading floor and by the same specialist units and registered traders (hereinafter referred to as "Exchange-wide fund share market making"). Amex believes that Exchange-wide fund share market making will provide a climate in which reduced customer trading costs will result from narrower spreads, cross product arbitrage, integrated risk management, increased liquidity and depth, higher trading volume and more effective and efficient servicing of customer order flow while assuring that there will be no undue advantage or preference among participants in the marketplace. Recent and expected future growth in the listing and trading of Fund Shares and the anticipated approval of the Exchange's proposed

filing concerning the trading of options on Fund Shares will permit customers and market makers to manage risks and coordinate related positions with lower trading costs and more effective and efficient execution of their investment strategies.⁴

The Exchange believes the proposed rule change will promote market efficiency by allowing the same specialist unit and registered traders to trade a number of related products, realizing the cost reducing advantages of cross product arbitrage and integrated risk management. Such advantages will result in narrower spreads, increased liquidity and depth, and higher trading volume in the markets for risk-related Fund Shares, options on Fund Shares and index options. Most importantly, the Exchange believes the proposed rule change will result in more effective and efficient servicing of customers' orders at lower expected transaction costs to the customers.

The Exchange believes that the proposed integration of market making in Fund Shares, options on Fund Shares and their related index options can increase market quality and will provide both price and operational efficiencies while raising minimal issues of informational advantage due to the derivative nature of all of these products.⁵ Such informational advantages are minimal because pricing of the Fund Shares is not based on supply of and demand for the Fund Shares, but on the value of the underlying index or portfolio of securities. For example, unlike stocks, prices of which are based in part on information regarding the performance of the issuer and the supply of and demand for the stock in the secondary market, Fund Shares are priced according to the current market prices of the underlying components held in the Fund Shares' portfolio trust. The

specialist for the Fund Shares is privy to information that indicates the supply of and demand for the Fund Shares themselves, but the specialist cannot rely upon such information when pricing Fund Shares since the index or basket of securities upon which the Fund Shares are based may not move in the same manner that the supply of and demand for the Fund Shares indicates. Accordingly, the Exchange does not believe that knowledge of limit orders on the specialist's book for the Fund Shares themselves provides an informational advantage to the specialist when pricing or trading the Fund Shares. The fund share market is a derivative market of underlying stocks and the markets for index options and fund share options is, correspondingly, a further derivative of this underlying market.

The Commission has stated that "[t]he integration of trading in options and their underlying securities on an exchange floor may create opportunities to engage in manipulative and other improper trading activities that do not presently exist."⁶ In order for the integration of market making in fund shares and their overlying options to create opportunities for the specialist and registered options traders to engage in manipulative activity, market making in both products must yield information that can be used in such an endeavor. As discussed in the previous section, the Exchange believes that neither the specialist nor the traders in any or all of these products are privy to exclusive market information that is useful in pricing the fund shares. Like all market participants, they have access to last sale information for each of the component securities, the current quotes for the components and price information for any other products such as a futures contract that may be used in pricing the fund shares. What little market information the specialist and traders are able to glean on the Exchange floor is more than likely known by other market participants and already factored into prices and quotes. In addition, given the enhanced surveillance systems that monitor all trading floor activity today, attempts to manipulate the market by a specialist or trader will be readily detected.

Among other reasons why limit orders in Fund Shares are not a source of informational advantage is the number of Fund Shares issued and outstanding may be increased or decreased at a very low cost in response to changing demand for the Fund Shares. A defining characteristic of all Amex-listed unit

³ Currently, the Exchange trades unit investment trust securities known as Portfolio Depository ReceiptsSM ("PDRs") based on the Standard & Poor's 500[®] Composite Stock Price Index, the Standard & Poor's MidCap 400 IndexTM and the Dow Jones Industrial Average. In addition, the Exchange trades fund shares which are issued by an open-end management investment company consisting of seventeen separate series known as World Equity Benchmark SharesSM ("WEBs") based on seventeen foreign equity indexes. PDRs and WEBs are listed on the Amex pursuant to Rule 1000, et seq. and rule 1000A et seq., respectively, and trade like shares of common stock. The Exchange is developing other fund shares for listing and trading which will have structures similar to PDRs and WEBs and proposes to trade options on many such securities. (See, Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) for Fund Shares and Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) for PDRs).

⁴ On July 1, 1998, the Commission approved a proposed rule change which permits the trading of options on Exchange-Traded Fund Shares. Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998).

⁵ At the Commission staff's request, the Exchange researched the issues of integrated market making and side-by-side trading. A letter setting forth the results of that research and an analysis of such activities with respect to Fund Shares and the overlying options was forwarded to the Commission staff. The letter reviews and analyzes Commission precedent for (and against) integrated market making as well as statements made by the Commission in the *Report of the Special Study of the Options Markets*, H.R. Rep. No. IFC3, 96th Cong. 1st sess. (Committee Print 1978) (referred to hereinafter as the "Options Study"). See, Letter from Claire P. McGrath, Vice President and Special Counsel, Derivative Securities Division, Amex, to Howard Kramer, Senior Associate Director, Division of Market Regulation, Commission, dated June 2, 1998.

⁶ *Options Study* at 885.

investment trust and management investment companies that hold securities based on an index or a portfolio of securities is that they are open-ended. New Fund Shares in these products may be created on any business day in response to an offer to purchase such shares. Accordingly, the ability of the seller of a call option on any such Fund Share to deliver upon exercise is a function of the availability of all the shares of the components represented in the trust, not just the share held by the fund itself. As a result, there is substantially less potential for manipulation of a Fund Share's price, since, unlike the market in a thinly traded corporate stock, the market for Fund Share's cannot be successfully squeezed or cornered because the potential supply to Fund Shares is, for all practical purposes, unlimited.

Lastly, although the Exchange believes that the proposed rule change will not increase the potential for trading abuse or manipulation, the Exchange currently has in place safeguards to detect and prevent any such abuse or manipulative activities. The Exchange believes its existing surveillance procedures are more than sufficient to detect any improper trading activity, deter any potential manipulative or improper trading activity and minimize the regulatory risks of integrated market making. The concentration of related product trading activity helps in the surveillance that assures that a customer receives a price appropriate to the state of the market when his order arrives on the trading floor. The Exchange conducts regular surveillance to detect any abuse or attempted manipulations and to insure compliance with its safeguards. The Exchange believes that the proximity of trading activity in related products will increase the effectiveness of these safeguards.⁷

⁷ In addition to the foregoing, in recent months the Commission has approved rule changes by other options exchanges which will permit these exchanges to list and trade, under unlisted trading privileges, some or all Fund Shares now listed on the Amex or which might be listed on the Amex or some other exchange in the future. In contrast to Amex rules which currently place limitations on option and equity trading locations and specialists' affiliations, the Amex believes that the rules of some of the other U.S. options exchanges impose no such limitations on trading locations, specialists' affiliations or market maker participation on these or related products. The proposed rule change will permit the Amex to conduct its business without unnecessary fetters not imposed on competitive markets. The changes will permit Amex specialists and market makers to use other related products traded on the Amex in the same way that specialists and market makers on other exchanges will be able to use related products traded on their exchanges in their market making and risk management

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁸ in general and furthers the objectives of Section 6(b)(5)⁹ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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

activities in Fund Shares and related options products.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-98-23 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-24885 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40430; File No. SR-CBOE-98-06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Rerouting of RAES Eligible Orders for the Last Five Minutes of the Scheduled Trading Day

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 20, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On April 9, 1998, the CBOE filed Amendment No. 1 to the proposed rule change with the Commission.³ On August 26, 1998, the CBOE filed Amendment No. 2 to the proposed rule change with the Commission.⁴ The

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange clarified when the new rule will operate. See Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Ken Rosen, Attorney, Division of Market Regulation ("Division"), Commission, dated March 31, 1998 ("Amendment No. 1").

⁴ In Amendment No. 2, the Exchange amended the proposed rule language to account for a new "RAES step-up" feature and further explained the

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to turn off, five minutes prior to the scheduled close of the trading day, the feature of CBOE's Retail Automatic Execution System ("RAES")⁵ that re-routes orders away from RAES when the RAES price is inferior to the best bid or offer in any other market ("NBBO reject"). Moreover, the design of RAES will not allow the RAES "step-up" feature, which provides automatic price improvement for RAES orders in some circumstances, to be used while the NBBO reject feature is turned off.⁶ The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, when an order is routed to the Exchange's order routing system and is eligible for execution through RAES,⁷ the system checks whether the bid or offer (as appropriate for the type of order) on any other U.S. exchange is better than the current CBOE displayed price for that series. The Exchange receives quotes from the other exchanges through a feed into its mainframe computer from the Options

Price Reporting Authority ("OPRA"). If the CBOE price is no worse than the price elsewhere, the order will be automatically executed at that price through RAES. If there is a better price elsewhere, then, pursuant to Interpretation .02 to CBOE Rule 6.8, the order will be rerouted to the Designated Primary Market-Maker ("DPM") (in the case of an option assigned to that DPM) or to an Order Book Official (in the case of an option assigned to a market-making crowd) for non-automated handling of the order.⁸ This rerouting function is called the "NBBO reject" feature.

Interpretation .02 to CBOE Rule 6.8 provides two situations in which the NBBO reject feature may not be employed: where a "fast market" in the equity options that are the subject of the orders in question has been declared on the Exchange or where comparable conditions exist in the other market such that the firm quote requirements do not apply. The proposed rule change will add a third situation that will apply to all equity options at the close of the scheduled trading day.

Under the proposal, the Exchange will turn off the NBBO reject feature of RAES for equity options five minutes prior to the scheduled close of the trading day. Thus, where the current rules set a closing time of 3:02 p.m. for equity options, the NBBO reject feature would be turned off at 2:57 p.m. The Exchange is proposing this change because trading is often hectic during the last few minutes of the trading day and the Exchange often receives large numbers of RAES orders at the end of the day. If a large number of orders are rejected, the number of orders to be handled in a nonautomated manner in a finite period of time will increase. The Exchange believes that this situation could interfere with the fair and orderly close of trading.

It should be noted that when a RAES-eligible order is subjected to an NBBO reject, the order must still be filled in the crowd. There is no guarantee that the order will be executed at a better price than the order will be executed at a better price than the order would have received had it been automatically executed on RAES. During the trading day when there is not a fast market, a DPM or trading crowd will likely fill the order at the better bid or offer displayed elsewhere. However, at the end of the

trading day, the order, once rerouted, may be filled behind at a number of other orders. By the time the crowd or DPM is able to fill the order, the market may have moved substantially from the time at which the order was re-routed and the order may be filled at a price inferior to that at which RAES would have executed the order. In fact, the order may not be filled at all if the market has moved away from the order's limit price. The Exchange believes that turning off the NBBO reject feature of RAES for the last five minutes of the scheduled trading day will reduce the likelihood of these occurrences. Of course, the Exchange also will still retain the right to turn off the NBBO reject feature at other times during the trading day when a "fast market" has been declared or when the other exchange is not honoring its firm quote commitment.

The design of RAES also prevents the RAES "step-up" feature from being used while the NBBO reject feature is turned off.⁹ In Amendment No. 2, the Exchange represented that member firms that handle a large percentage of the RAES order flow have expressed their interest in turning off the reject feature, and consequently the RAES "step-up," during the last five minutes of the trading day because, in their informed opinion, it is more problematic if an order does not get filled at all (which is a possibility if the order is rejected for manual handling in the last few minutes of the trading day) than if an order is filled at the displayed CBOE price even though there may have been a better displayed quote on another exchange. These firms have stated that their customers are much more sensitive to the risk that their order will not be filled. In addition, these firms have indicated that in some circumstances the firm may talk to the trading crowd about making an adjustment for a customer if the customer believes he was disadvantaged by such a policy.¹⁰

2. Statutory Basis

The CBOE believes that the proposed rule change will help to allow the Exchange to close its market in a fair and orderly manner. As such, the Exchange believes the rule proposal is consistent with and furthers the objectives of Section 6(b)(5)¹¹ of the Act, in that it is designed the perfect the mechanisms of a free and open market and to protect investors and the public interest.

purpose of and justification for the proposal. See Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Richard Strasser, Assistant Director, Division, Commission, dated July 15, 1998 ("Amendment No. 2").

⁵ RAES is the Exchange's automatic execution system for small public customer market or marketable limit orders.

⁶ See Amendments No. 2.

⁷ See CBOE Rule 6.8.

⁸ However, when the NBBO is within one pricing increment of the CBOE price, a new RAES "step-up" feature may be employed to provide automatic execution in RAES at the NBBO. See Securities Exchange Act Release No. 40096 (June 16, 1998) 63 FR 34209 (June 23, 1998) (order approving proposal).

⁹ See amendment No. 2.

¹⁰ See amendment No. 2.

¹¹ 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Burden on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interests persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, the Commission seeks comment on firms' continued best execution obligations in light of the proposal. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-98-06 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24886 Filed 9-16-98; 8:45am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 3440427; File No. SR-NASD-98-65]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to SelectNet Fees

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 27, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is herewith filing a proposed rule change to extend, through November 30, 1998, the fees currently charged under NASD Rule 7010(1) for the execution of transactions in SelectNet. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: (1) \$1.00 will be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part; (2) no fee will be charged to a member who receives and executes a directed SelectNet order; (3) the existing \$2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a \$0.25 fee will remain in effect for any member who cancels a SelectNet order. If no further action is taken, SelectNet fees will revert to their original \$2.50 per-side level on December 1, 1998.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Nasdaq is proposing to again extend its current SelectNet fees. The reasons for Nasdaq's prevailing SelectNet fee structure were fully explained in its original fee structure proposal filed with the Commission in February of this year.² Since then, SelectNet usage has continued at significantly elevated levels, averaging over 120,000 daily executions in June and 140,000 executions each day in July of 1998. As such, Nasdaq believes that an extension of these reduced fees, through November 30, 1998, is warranted. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: charged to a member who receives and executes a directed SelectNet order; (3) the existing \$2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a \$0.25 fee will remain in effect for any member who cancels a SelectNet order. Nasdaq will continue to monitor and review SelectNet activity to determine if further extensions of its reduced SelectNet fee structure are appropriate. If no further action is taken, SelectNet fees will revert to their original \$2.50 per-side level on December 1, 1998.

For the reason set forth above, Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act,³ which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any

² Securities Exchange Act Release No. 39641 (February 10, 1998), 63 FR 8241 (February 18, 1998). Nasdaq's current reduced fee structure was originally approved for a 90-day trial period, commencing the day the proposal was published in the **Federal Register**. The reduced fees were extended in May 1998 and would expire on August 31, 1998, if not extended by this filing. See Securities Exchange Act Release No. 40050 (June 1, 1998), 63 FR 31254 (June 8, 1998).

³ 15 U.S.C. 78o-3(b)(5).

facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This filing applies to the assessment of SelectNet fees to NASD members, and thus the proposed rule change is effective immediately upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act and subparagraph (e)(2) of Rule 19b-4 thereunder⁴ because the proposal is establishing or changing a due, fee or other charge. At any time within 60 days of the proposed 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.⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 Room. Copies of such filing will also be

available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR-NASD-98-65 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24884 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the OCC is soliciting comment on a new survey it proposes to conduct among national banks. Some national banks have publicly announced pledges or commitments to undertake lending, investment, or other activities pertaining to their obligations under the Community Reinvestment Act (CRA). The OCC's survey is designed to learn how these banks monitor their progress in achieving the CRA commitments they have announced.

DATES: Written comments should be submitted by November 16, 1998.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557-CCRA, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874-5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting Jessie Gates or Camille Dixon, (202) 874-5090, Legislative and Regulatory Activities Division (1557-CCRA).

SUPPLEMENTARY INFORMATION:

Title: Survey of CRA Commitments and Actions.

OMB Number: None.

Form Number: Not Applicable.

Abstract: Over the last few years, some national banks that have

completed mergers or acquisitions have publicly announced commitments to undertake lending, investment, or other Community Reinvestment Act-related activities. (Publicly announced pledges or undertakings of this type are referred to in this notice as "CRA commitments;" purely private arrangements or commitments are not included). These CRA commitments frequently extend for several years or more and may call for the bank to establish a variety of different new programs. The OCC believes that national banks should regularly monitor their progress toward achieving any commitments they have announced in order to ensure that their CRA commitments will be satisfied in a timely way. The OCC therefore proposes to survey national banks that have made public CRA commitments to see what systems and procedures they have in place to track their progress in achieving their announced goals.

The survey will provide the OCC with information about the adequacy of banks' monitoring systems. The OCC will use the results of the survey as background information in its examination and policymaking processes.

The questions that the OCC proposes to include in this survey are as follows.

CRA Commitment Survey

1. Within the past 5 years, has the bank publicly announced any pledge or commitment to undertake CRA lending, investment, provision of services, or other activity? (In this survey, we refer to such a pledge or commitment as a "CRA commitment.")

☐ Yes ☐ No

2. Does the bank have a system in place to track its progress toward achieving its CRA commitment?

☐ Yes ☐ No

3. If the bank has written policies or procedures describing its tracking system, please provide a copy.

4. If the bank has a tracking system in place, please describe on a separate sheet its principal features. Your description should address the following questions.

(a) How does the bank set goals or targets for meeting its CRA commitments (e.g., by dollar amount per quarter or per year)?

(b) How often does the bank monitor progress toward its goals?

(c) How does the bank monitor its progress (e.g., along business lines, by geographic area, according to specific programs, etc.)?

(d) How does the bank gather information about its progress? Does the bank solicit feedback from external

⁴ 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b-4(e)(2).

⁵ In reviewing the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 17 CFR 200.30-3(a)(12).

sources (e.g., community groups, local businesses) to help it monitor its progress?

(e) How is the bank's tracking system managed and operated, e.g., at what level of bank management does accountability for the system reside, how many bank employees staff the system, etc.?

(f) How is progress reported to the bank's board of directors?

(g) Does the bank make available to its customers or to the general public information about its progress toward meeting its CRA commitment? If so, how does the bank communicate that information?

5. If the bank has no tracking system in place, how does the bank measure its progress toward achieving its CRA commitment?

(End of proposed CRA Commitment Survey)

Type of Review: New collection.

Affected Public: Businesses.

Number of Respondents: 50 respondents.

Total Annual Responses: 50 responses.

Frequency of Response: One time only.

Total Annual Burden: 100 hours.

Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 1998.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 98-24863 Filed 9-16-98; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the information collection entitled Minority Thrift Certification Form.

DATES: Submit written comments on or before November 16, 1998.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550-0096. Hand deliver comments to 1700 G Street, NW. from 9:00 A.M. to 5:00 P.M. on business days. Send facsimile transmissions to FAX Number (202) 906-7755 or (202) 906-6956 (if the comment is over 25 pages). E-mail to public.info@ots.treas.gov and include your name and telephone number. Interested persons may inspect comments at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days.

Interested persons may also inspect copies of the Form with instructions at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202) 906-5660.

FOR FURTHER INFORMATION CONTACT: Caryn Stein, Compliance Policy, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906-7020.

SUPPLEMENTARY INFORMATION:

Title: Minority Thrift Certification Form.

OMB Number: 1550-0096.

Form Number: OTS Form 1661.

Abstract: This information is needed to help OTS maintain a reliable source of information regarding the universe of minority-owned thrifts, in accordance with our responsibilities under Section 308 of FIRREA.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal of an already approved collection.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 36.

Estimated Time Per Respondent: .5 average hours.

Estimated Total Annual Burden Hours: 18 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: September 11, 1998.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98-24892 Filed 9-16-98; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

September 11, 1998.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Number: 1550-0085.

Form Number: OTS Form 1602.

Type of Review: Renewal of an already approved collection.

Title: Ongoing Customer Survey for Interpretive Opinions.

Description: This information collection is needed to obtain feedback on the quality of opinions produced by the Office of Thrift Supervision in order

to meet the goals of the National Performance Review with respect to improving customer service on a long-term basis.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Reporters: 35.

Estimated Burden Hours Per Reporter: .25 average hours.

Frequency of Response: 1.

Estimated Total Reporting Burden: 8.75 hours.

Clearance Officer: Colleen M. Devine, (202) 906-6025, Office of Thrift Supervision, 1700 Street, N. W., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98-24891 Filed 9-16-98; 8:45 am]

BILLING CODE 6720-01-P

UNITED STATES INFORMATION AGENCY

NIS REAC (Newly Independent States Regional Educational Advising Coordinator)

ACTION: Request for proposals.

SUMMARY: The Advising and Student Services Branch of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)-1 may submit proposals for candidates for the position of regional educational advising coordinator (REAC) in the NIS region. Ideally based in Moscow, the REAC would work to support and assist in the professional development of advising centers in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The REAC is the primary source of information related to educational advising for advisers in the field. In addition to responding to individual queries and supervising the distribution of a regional newsletter, the REAC would travel to advising centers to assist the organizations and staff responsible for those centers to operate them efficiently. The REAC would be responsible for maintain the network of advisers, for the coordination of training programs for NIS advisers, which may

include an annual conference, and for the facilitation of communication between and among advising centers, posts, and E/ASA in Washington.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87-256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . . ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations . . . and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Title and Number: All communications with USIA concerning this RFP should refer to the announcement's title and reference number E/ASA-99-06.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Monday, October 26, 1998. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted.

FOR FURTHER INFORMATION CONTACT:

The Advising and Student Services Branch, E/ASA, U.S. Information Agency, 301 4th Street, S.W., Washington, DC 20547, telephone: (202) 619-5434, fax: (202) 401-1433, email: ssheehan@usia.gov, to request a Solicitation Package containing more detailed criteria. Please request required application forms and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from USIA's website at <http://www.usia.gov/education/rfps>. Please read all information before downloading.

To Receive a Solicitation Package Via Fax on Demand: The entire Solicitation Package may be received via the Bureau's "Grants Information Fax on Demand System", which is accessed by calling 202/401-7616. Please request a "Catalog" of available documents and

order numbers when first entering the system.

Please specify USIA Program Officer Sharen Sheehan on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and eight copies of the application should be sent to: U.S. Information Agency, Ref.: E/ASA-99-06, Office of Grants Management, E/XE, Room 336, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104-319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

The overall goal for the NIS Regional Educational Advising Coordinator (REAC) is to develop and strengthen the network of USIA-Supported overseas educational advising centers and to provide leadership and expertise in educational advising issues to advising centers and USIS posts. The REAC will be responsible for providing on-site technical assistance and training to

existing centers in the NIS and for coordinating the establishment of new advising centers, as directed by individual embassies in consultation with E/ASA. The REAC should lend support to any center in the twelve countries comprising the NIS region. The NIS REAC, acting as educational advising coordinator for the area, should work impartially with all organizations involved in educational advising in the NIS to enable them to provide accurate and timely information on U.S. higher educational opportunities. The REAC must work closely with E/ASA and NIS USIS posts to help establish priorities for educational advising in the region. The REAC must be a US citizen. Applicants may request from E/ASA a more comprehensive listing of expected REAC duties, entitled "REAC Guidelines." Contact the "For Further Information" address given above.

Guidelines

Responsibilities include:

1. Site visits to advising centers
2. Providing information and guidance in response to specific questions related to educational advising, as requested by centers
3. Supervising production of a newsletter, electronic bulletin board, email discussion list, or other methods of sharing information among centers
4. Organization and oversight of an internship program for approximately five novice advisers at the Moscow American Center; other internship training programs (ITPs) as necessary
5. In-country workshops: One all-region workshop and two to three smaller workshops, or as determined in consultation with E/ASA and US Posts
6. Consultations with posts and E/ASA on the direction and priorities of educational advising
7. Evaluation and Follow-up

Proposed Budget

Applicants must submit a comprehensive line item budget based on the budget guidelines in the PSI. USIA's grant assistance, up to \$95,000 in total, is expected to constitute only a portion of the total funding; cost sharing is required and the proposal should list other anticipated sources of support.

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to \$60,000.

Applicants must submit a comprehensive budget. There must be a summary budget as well as a breakdown reflecting travel cost details.

Allowable costs for the program include the following:

- (1) REAC Salary of not more than \$40,000 plus fringe benefits;
- (2) Administrative assistant salary
- (3) travel throughout region and per diem;
- (4) travel for REAC to attend the NAFSA National Conference in Denver, CO and REAC meetings in Washington, DC in spring 1999.
- (5) office and administrative costs
- (6) program costs for Internship Training Programs Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA EEN Area Office. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to Agency mission.
2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agency and plan should adhere to the program overview and guidelines described above.
3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.
4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding and be designed to enable advising centers to reach as large and diverse an audience as possible.
5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity.

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Project Evaluation:* Proposals should include a plan to evaluate the REAC activities' impact. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. The award-receiving organization will be expected to submit trip reports after each site visit and semi-annual reports reviewing the over-all status of educational advising in the NIS.

9. *Cost-effectiveness:* The overhead and administrative components of the proposal, should be kept as low as possible. All other items should be necessary and appropriate.

10. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

11. *Value to U.S.-Partner Country Relations:* Proposed programs should receive positive assessments by USIA's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: September 10, 1998.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 98-24824 Filed 9-16-98; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Committee, Notice of Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory

Committee Act, 5 U.S.C. Appendix, of the following subcommittee meetings to be held from 8 a.m. to 5 p.m. as indicated below:

Subcommittee	Date	Location
Endocrinology	September 24-25, 1998.	Holiday Inn Central.
Aging and Clinical Geriatrics	September 25, 1998	Holiday Inn Central.
Alcoholism and Drug Dependence	September 28, 1998	Holiday Inn Central.
Nephrology	October 1, 1998	Radisson Barcelo Hotel.
Gastroenterology	October 1-2, 1998 ..	Holiday Inn Central.
Cardiovascular Studies	October 12-13, 1998.	St. James Suites.
Respiration	October 13, 1998	St. James Suites.
Infectious Diseases	October 15-16, 1998.	Crowne Plaza Hotel.
Oncology	October 19-20, 1998.	Radisson Barcelo Hotel.
Hematology	October 22, 1998	Crowne Plaza Hotel.
Mental Health and Behavioral Sciences	October 22-23, 1998.	Holiday Inn Central.
Surgery	October 24, 1998	Clarion Plaza Hotel.
General Medical Science	October 26-27, 1998.	Radisson Barcelo Hotel.
Neurobiology	October 27-29, 1998.	Holiday Inn Central.
Immunology	October 29-30, 1998.	Holiday Inn Central.
Medical Research Service Merit Review Committee	December 3, 1998 ..	Holiday Inn Central.

The addresses of the hotels are listed below:

Clarion Plaza Hotel, 9700 International Drive, Orlando, FL 32819

Crowne Plaza Hotel, 1001 14th Street, NW, Washington, DC 20005

Holiday Inn Central, 1501 Rhode Island Avenue, NW, Washington, DC 20005

Radisson Barcelo Hotel, 2121 P Street, NW, Washington, DC 20037

St. James Suites, 950 24th Street, NW, Washington, DC 20037

These subcommittee meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

The subcommittee meetings will be open to the public for approximately one hour at the start of each meeting to discuss the general status of the program. The remaining portion of each subcommittee meeting will be closed to the public for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of each subcommittee meeting involves discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research

protocols and similar documents. During this portion of the subcommittee meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly hinder implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92-463, as amended by Public Law 94-409, closing portions of these subcommittee meetings are in accordance with 5 U.S.C. 552b(c)(6) and (9)(B). Those who plan to attend or would like to obtain a copy of minutes of the subcommittee meetings and rosters of the members of the subcommittees should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 275-6634.

Dated: September 11, 1998.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98-24895 Filed 9-16-98; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that a meeting of the Advisory Committee on Women Veterans will be held on September 21-26, 1998, at the Department of Veterans Affairs, Veterans Integrated Service Network (VISN) 12, Building 18, 5th Avenue and Roosevelt Road, Hines, IL 60104. The agenda will include tours of VA facilities throughout the Chicago metropolitan area. The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs, and activities administered by the Department of Veterans Affairs designed to meet such needs. The Committee will make recommendations to the Secretary regarding such activities.

All sessions will be open to the public. The sessions are coordinated by the VA Chicago Health Care System, West Side Division, 820 S. Damen Avenue, Chicago, IL 60612. For additional information regarding the

sessions, contact Ms. Melanie Harris, MSW, Coordinator, Women's Health Program, Room G-C111, at (312) 633-2168. Those who plan to attend should contact Ms. Maryanne Carson, Department of Veterans Affairs, Center for Women Veterans, 810 Vermont Avenue, NW., Washington, DC 20420, at (202) 273-6193. A tentative agenda follows.

Monday, September 21, 1998

9:00 a.m.—Overview of VISN 12 Women's Health Initiative, Overview of Women's Programs, Tour Women's Healthcare Clinic
10:00 a.m.—Welcome to Hines VA Hospital
10:30 a.m.—Hines Women Veterans Program and Services
11:45 a.m.—Lunch
12:45 p.m.—Tour Women's Health Clinic, Mammography Suite and Patient Education Resource Center. Address: VISN 12, Building 18, 5th Avenue & Roosevelt Road, Hines, IL
2:00 p.m.—Depart from Hines VA Medical Center (VAMC)
2:30 p.m.—Tour Hines VAMC Satellite Clinic—Oak Park. Address: 149 S. Oak Park Ave, Oak Park, IL
3:00 p.m.—Tour Oak Park Vet Center. Address: 155 S. Oak Park Avenue, Oak Park, IL
4:00 p.m.—Return to Hotel

Tuesday, September 22, 1998

8:45 a.m.—Arrive West Side VAMC
9:00 a.m.—Welcome and Introductions; Overview of Program
9:30 a.m.—Women's health Director
10:00 a.m.—Tour Women's Health Clinic, Residential Programs and

Homeless Services. Address: 820 S. Damen Ave, Chicago, IL
10:45 a.m.—Depart West Side VAMC
11:00 a.m.—Arrive Lakeside VAMC Women Veterans Advisory Committee Meeting Women's Health Clinical Briefing/Tour. Address: 333 E. Huron, Chicago, IL
12 noon—Lunch at Signature Restaurant, John Hancock Bldg., 92nd floor, Michigan Ave., Chicago, IL
2:00 p.m.—Depart downtown Chicago, IL
2:30 p.m.—Arrive 63rd Street Satellite Clinic/Vet Center Clinical Briefing/Tour
3:00 p.m.—Veterans Resource Center Clinical Briefing/Tour Discussion on community resources for women veterans and homeless shelters. Address: 1502 E. 63rd Street, Chicago, IL
4:30 p.m.—Return to hotel

Wednesday, September 23, 1998

9:00 a.m.—West Side VAMC Director's Conference Room Overview VISN 12: Women's Health Services by Women Veterans Coordinators, Address: 820 S. Damen Ave. Chicago, IL
12 noon—Lunch
1:00 p.m.—Depart West Side VAMC
1:30 p.m.—Arrive Veterans Benefits Administration Regional Office Overview Women Veterans Programs
2:30 p.m.—Cemetery Systems Overview
3:30 p.m.—Chicago Veterans Advisory Council Address: 536 S. Clark Street, Chicago, IL
4:30 p.m.—Return to hotel

Thursday, September 24, 1998

9:30 a.m.—Arrive at North Chicago VAMC Tour Compensation and Pension Program, Bldg. 135, Rm. 138
10:30 a.m.—Women Veterans Open Forum, Bourke Hall, Bldg. 4, Rm. 101
11:30 a.m.—Dedication of Women Veterans Monument, front of Bldg. 133, Joan Furey, Director, Center for Women Veterans
12 noon—Lunch: Nursing Conf. Rm., Bldg. 133, Clinical Addition, Rm. 3D-105h Address: 3001 Green Bay Road, North Chicago, IL
1:00 p.m.—Depart for Evanston Vet Center
2:00 p.m.—Arrive Evanston Vet Center
2:30 p.m.—Tour Evanston Outpatient Program Address: 565 W. Howard St., Evanston, IL
3:30 p.m.—Return to hotel

Friday, September 25, 1998

8:30 a.m.—Executive Session of Secretary's Advisory Committee on Women Veterans, Executive Plaza Hotel, 71 East Wacker Dr., Chicago, IL, Wacker A Conference Room.

Saturday, September 26, 1998

10:00 a.m.—Women Veterans Open Forum Address: West Side VAMC Atrium, 820 S. Damen Ave., Chicago, IL
12 noon—Site visits concludes
Dated: September 10, 1998.
By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98-24896 Filed 9-16-98; 8:45 am]

BILLING CODE 8320-01-M

Notices

Federal Register

Vol. 63, No. 180

Thursday, September 17, 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

Food Safety and Inspection Service

[Docket No. 98-043N]

Meeting on Risk Analysis for Bovine Spongiform Encephalopathy (BSE) in the United States

AGENCY: Food Safety and Inspection Service; Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) and the Animal and Plant Health Inspection Service (APHIS) are announcing that they will hold a public meeting to assess Department of Agriculture (USDA) measures to prevent Bovine Spongiform Encephalopathy (BSE) from entering the United States and endangering the U.S. food supply. On April 24, 1998, USDA entered into a cooperative agreement with Harvard University's School of Public Health to conduct a risk analysis to assess the potential pathways for entry into U.S. cattle and the U.S. food supply, to evaluate existing regulations and policies, and to identify any additional measures that could be taken to protect human and animal health. This meeting will provide an opportunity for public input and a chance to comment on the scope of the BSE risk analysis project.

DATES: The meeting will be held from 9:30 a.m. to 12:30 p.m. on September 28, 1998.

ADDRESSES: The September 28 meeting will be held at the National Rural Electric Cooperative Association, 4301 Wilson Boulevard, Arlington, VA 22203-1850; telephone (703) 907-5500. To register for the meeting, contact Ms. Jennifer Callahan by telephone at (202) 501-7251 or by FAX at (202) 501-7642. If a sign language interpreter or other special accommodation is needed, contact Ms. Callahan at the above

numbers by September 21, 1998. Persons wishing to present technical data at the public meeting are asked to bring 100 copies of their data for distribution to participants in the meeting and to submit one original and two copies of the data to the FSIS Docket Clerk, Room 102, Cotton Annex Building, 300 12th Street, SW, Washington, DC 20250-3700. All other written comments should be submitted to the FSIS Docket Clerk at the above address.

FOR ADDITIONAL INFORMATION CONTACT: Dr. Ruth Etzel, Director, Epidemiology and Risk Assessment Division, Office of Public Health and Science, at (202) 501-7472 or by FAX at (202) 501-6982.

SUPPLEMENTARY INFORMATION: BSE is a progressive neurological disorder of cattle that results from infection by an unknown transmissible agent. Although the nature of the transmissible agent is unknown, a theory which has gained increasing acceptance is that the agent is a modified form of a normal cell surface component known as the prion protein, a pathogenic form of the protein that is less soluble and more resistant to enzyme degradation than the normal form. Two other theories are the virus and virino theories.

From 1986 to 1998, an estimated 171,000 head of cattle were diagnosed with BSE in Great Britain. The epidemic may have resulted from the feeding of scrapie-containing sheep meat-and-bone meal to cattle, but most likely was amplified by feeding rendered bovine meat-and-bone meal back to cattle. Several other European countries have reported indigenous cases of BSE.

No cases of BSE have been diagnosed in the United States. The USDA BSE Working Group has taken aggressive measures to prevent BSE from entering the U.S. over the last 10 years. These measures include the 1989 ban of cattle and cattle products from countries where BSE has been reported and active inspection, testing, and education programs targeted toward preventing the entry of suspect animals and animal products into this country. USDA cooperates with other government agencies in carrying out this mission. The information developed through the risk analysis will be used to refine USDA's regulatory activities.

Done in Washington, DC, on September 11, 1998.

Thomas J. Billy,
Administrator.

[FR Doc. 98-24888 Filed 9-15-98; 8:45 am]

BILLING CODE 6351-01-M

CENSUS MONITORING BOARD

Meeting

AGENCY: U.S. Census Monitoring Board.

ACTION: Notice of Cancellation of Public Hearing.

SUMMARY: This notice hereby cancels the Sept. 18 public hearing of the U.S. Census Monitoring Board. The original hearing notice was published on Sept. 10, 1998 in the **Federal Register** (FR Doc. 98-24258) Vol. 63, No. 175 (63 FR 48467). The hearing will be rescheduled in the near future.

FOR MORE INFORMATION CONTACT: Carrie Hyun, Communications Director, Presidential Members, U.S. Census Monitoring Board, Phone 301/457-9903 or Michael Miguel, Press Secretary, Congressional Members, U.S. Census Monitoring Board, Phone 301/457-5080.

Mark R. Johnson,

Executive Director, Presidential Members.

[FR Doc. 98-24988 Filed 9-14-98; 4:47 pm]

BILLING CODE 1179-00-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Oklahoma 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 Oklahoma Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:00 p.m. on September 29, 1998, at the Clarion/Comfort Inn Conference Center, 4345 North Lincoln Boulevard, Oklahoma City, Oklahoma 74105. The purpose of the meeting is to collect pertinent information from school district officials and the community on student discipline and students exempt from taking the Iowa Test of Basic Skills.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the

Central Regional Office, 913-551-1400 (TDD 913-551-1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 9, 1998.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit
[FR Doc. 98-24920 Filed 9-16-98; 8:45 am]

BILLING CODE 6335-01-F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania 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 Pennsylvania Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 5:00 p.m. on October 26, 1998, at the Pennsylvania Convention Center, Administrative Level Board Room, 12th and Arch Streets, Philadelphia, Pennsylvania 19107. The purpose of the meeting is for the Committee to complete its project planning for a future consultation on barriers confronting women and minority business owners.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 9, 1998.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit
[FR Doc. 98-24919 Filed 9-16-98; 8:45 am]

BILLING CODE 6335-01-F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Texas 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 Texas Advisory Committee to the Commission will convene at 3:00 p.m. and adjourn at 5:00 p.m. on October 1, 1998, at the Ramada Hotel-Market Center, 1055 Regal Row, Dallas, Texas, 75247. The purpose of the meeting is to conduct a hate crimes community workshop at the Texas NAACP conference.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213-894-3437 (TDD 213-894-3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 9, 1998.

Carol-Lee Hurley

Chief, Regional Programs Coordination Unit
[FR Doc. 98-24921 Filed 9-16-98; 8:45 am]

BILLING CODE 6335-01-F

DEPARTMENT OF COMMERCE

International Trade Administration

[A-301-602]

Certain Fresh Cut Flowers From Colombia: Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is rescinding this administrative review with respect to ten groups of companies based upon a withdrawal of the request for review by the interested parties who requested reviews of these companies.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Rosa Jeong or Marian Wells, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3853 or 482-6309, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). All citations to the Department of Commerce's regulations are references to the provisions codified at 19 CFR Part 351, 62 FR 27296 (May 19, 1997).

SUPPLEMENTARY INFORMATION:

Background

On April 21, 1998, the Department of Commerce ("the Department") published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on fresh cut flowers from Colombia, covering the period March 1, 1997 through February 28, 1998 (61 FR 66017) based upon a request by certain exporters/producers of the subject merchandise and the domestic interested party in this proceeding.

On June 29, 1998, we received timely requests for rescission of the review from the Floral Trade Council, the domestic interested party, for the following groups of companies: Agrodex Group ("Agrodex"), Caicedo (CAICO) Group ("Caicedo"), Claveles Colombianos Group ("Clavecol"), Cultivos Miramonte Group ("Miramonte"), Floraterra Group ("Floraterra"), Florex Group ("Florex"), Funza Group ("Funza"), Guacatay Group ("Guacatay"), HOSA Group ("HOSA"), Maxima Group ("Maxima"), Papagayo Group ("Papagayo"), and Queens Group ("Queens"). On June 30, 1998, we received timely requests for rescission of the review from Clavecol, Floraterra, Funza, Guacatay, Papagayo and Queens. On July 8, 1998, Agrodex also withdrew its review request.

Therefore, in accordance with section 355.213(d)(1) of the Department's regulations, we are rescinding this administrative review with respect to Agrodex, Clavecol, Miramonte, Floraterra, Florex, Funza, Guacatay, HOSA, Papagayo and Queens, because these companies, along with the domestic interested party, have filed timely requests for withdrawal and no other interested party requested that they be reviewed. The cash deposit rates for these companies will continue to be the rates established for them in the most recently completed final results. We are not rescinding this review with respect to Caicedo and Maxima because these companies have not withdrawn their requests for review.

Rescissions

The following is the complete list of companies for which this review has been rescinded.

Agrodex Group

Agricola de las Mercedes S.A.
Agricola el Retiro Ltda.
Agrodex Ltda.
Degaflores Ltda.
Flores Camino Real Ltda.
Flores Cuatro Esquinas Ltda.
Flores de la Comuna Ltda.
Flores de Los Amigos Ltda.
Flores de los Arrayanes Ltda.
Flores de Mayo Ltda.
Flores del Gallinero Ltda.
Flores del Potrero Ltda.
Flores dos Hectareas Ltda.
Flores de Pueblo Viejo Ltda.
Flores el Trentino Ltda.
Flores la Conejera Ltda.
Flores Manare Ltda.
Florinda Ltda.
Horticola el Triunfo Ltda.
Horticola Montecarlo Ltd

Claveles Colombianos Group

Claveles Colombianos Ltda.
Elegant Flowers Ltda.
Fantasia Flowers Ltda.
Splendid Flowers Ltda.
Sun Flowers Ltda.

Cultivos Miramonte Group

C.I. Colombiana de Bouquets S.A.
Cultivos Miramonte S.A.
Flores Mocari S.A.

Floraterra Group

Floraterra S.A.
Flores Casablanca S.A.
Flores Novaterra Ltda.
Flores San Mateo S.A.
Siete Flores S.A.

Florex Group

Agricola Guacari S.A.
Agricola el Castillo
Flores San Joaquin
Flores Altamira S.A.
Flores de Exportacion S.A.
Flores Primavera S.A.

Funza Group

Flores Alborada
Flores de Funza S.A.
Flores del Bosque Ltda.

Guacatay Group

Agricola Cunday S.A.
Agricola Guacatay S.A.
Agricola Ventura
Jardines Bacata Ltda.
Multiflora Comercializadora Internacional S.A.

Hosa Group

Horticultura de la Sabana S.A.
HOSA Ltda.
Innovacion Andina S.A.
Minispray S.A.
Prohosa Ltda.

Papagayo Group

Agricola Papagayo Ltda.

Inversiones Calypso S.A.

Queens Flowers Group

Agroindustrial del Rio Frio
Cultivos General Ltda.
Flora Nova
Flora Atlas Ltda.
Flores Calima S.A.
Flores Canelon Ltda.
Flores de Bojaca
Flores del Cacique
Flores del Hato
Flores el Aljibe Ltda.
Flores el Cipres
Flores El Pino Ltda.
Flores el Tandil
Flores la Mana
Flores las Acacias Ltda.
Flores la Valvanera Ltda.
Flores Jayvana
Flores Ubate Ltda.
Jardines de Chia Ltda.
Jardines Fredonia Ltda.
M.G. Consultores Ltda.
Mountain Roses
Queens Flowers de Colombia Ltda.
Quality Flowers S.A.
Florval S.A. (Floval)
Jardines del Rosal

This notice is in accordance with section 751 of the Act and 19 CFR 351.213(d)(4).

Dated: September 11, 1998.

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 98-24960 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-122-503]

Iron Construction Castings From Canada: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Revocation in Part of Antidumping Duty Order.

SUMMARY: In response to the April 30, 1998 request by the Municipal Castings Fair Trade Council, the petitioner in this case, the Department of Commerce (the Department) simultaneously initiated a changed circumstances antidumping duty administrative review and issued the preliminary results of this review expressing an intent to revoke, in part, the antidumping duty order on iron construction castings from Canada. The

scope of the order currently includes valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water and gas meters, which are considered light castings. We are now revoking that portion of the order relating to light castings, based on the fact that this portion of the order is no longer of interest to domestic parties.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Wendy Frankel, AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482-5346/5849, respectively.

SUPPLEMENTARY INFORMATION:**Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

On April 30, 1998, the Municipal Castings Fair Trade Council (the petitioner), requested that the Department revoke, in part, the antidumping duty order with respect to light iron construction castings based on its lack of further interest. We preliminary determined that petitioner's affirmative statement of no interest constituted good cause for conducting a changed circumstances review. Consequently, on July 8, 1998, the Department published a notice of initiation and preliminary results of changed circumstances antidumping duty administrative review to determine whether to revoke this order in part (63 FR 6876). We gave interested parties an opportunity to comment on the preliminary results of this changed circumstances review. We received no comments.

Scope of the Order

The merchandise covered by the order consists of certain iron construction castings from Canada, limited to manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy

castings under Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010 and 7325.10.0050; and to valve, service, and meter boxes which are placed below ground to encase water, gas, or other valves, or water and gas meters, classifiable as light castings under HTS item numbers 8306.29.0000 and 8310.00.0000. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

Scope of the Changed Circumstances Administrative Review

Imports covered by this changed circumstances administrative review are shipments of light castings from Canada, as described above.

Final Results of Changed Circumstances Review; Partial Revocation of Antidumping Duty Order

The affirmative statement of no interest by the petitioner constitutes changed circumstances sufficient to warrant partial revocation of this order. Therefore, the Department is partially revoking the order on iron constructions castings from Canada, with regard to light castings, in accordance with sections 751(b) and (d) and 782(h) of the Act and 19 CFR 351.222(g)(1)(i). This partial revocation applies to all entries of light iron construction castings entered, or withdrawn from warehouse, for consumption on or after March 1, 1997.

New Scope of the Order

The merchandise covered by the order consists of certain iron construction castings from Canada, limited to manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010 and 7325.10.0050. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

Ending of Suspension of Liquidation

The Department will instruct the U.S. Customs Service to end the suspension of liquidation of light iron construction castings subject to this changed circumstances review on the effective date of this notice, and to refund any estimated antidumping duties collected, for all unliquidated entries of such merchandise made on or after March 1, 1997. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act.

This notice is in accordance with sections 751(b) and 777(i)(1) of the Act (19 U.S.C. 1675(b) and 1677f(i)(1)), and 19 CFR 351.216, 351.221, and 351.222.

Dated: August 20, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98-24961 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DS-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Bulgaria

September 14, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 17, 1998.

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 or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for carryover and carryforward.

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 62564, published on November 24, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 14, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile products, produced or manufactured in Bulgaria and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on September 17, 1998, you are directed to adjust the current limits for the following categories, as provided for in the agreement between the Governments of the United States and Bulgaria:

Category	Adjusted twelve-month limit ¹
433	14,087 dozen.
435	24,448 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1997.

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98-24963 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

September 11, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854);

Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift, carryover, carryforward and recrediting unused carryforward.

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 67834, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 11, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the period January 1, 1998 through December 31, 1998.

Effective on September 17, 1998, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit ¹
Sublevels within Fabric Group	
619	5,320,516 square meters.
620	6,419,698 square meters.
Other specific limits	
336/636	485,387 dozen.
338/339	1,161,688 dozen.
347/348	652,799 dozen.
445/446	35,242 dozen.
645/646	363,916 dozen.
647/648	1,721,282 dozen of which not more than 1,258,445 dozen shall be in Category 647-K ² and not more than 1,258,445 dozen shall be in Category 648-K ³ .

¹ The limits have not been adjusted to account for any imports exported after December 31, 1997.

² Category 647-K: only HTS numbers 6103.23.0040, 6103.23.0045, 6103.29.1020, 6103.29.1030, 6103.43.1520, 6103.43.1540, 6103.43.1550, 6103.43.1570, 6103.49.1020, 6103.49.1060, 6103.49.8014, 6112.12.0050, 6112.19.1050, 6112.20.1060 and 6113.00.9044.

³ Category 648-K: only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2006, 6104.63.2011, 6104.63.2026, 6104.63.2028, 6104.63.2030, 6104.63.2060, 6104.69.2030, 6104.69.2060, 6104.69.8026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.9052 and 6117.90.9070.

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98-24964 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DR-F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

September 11, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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 or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, special shift, and carryover.

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 67837, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 11, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the twelve-month period beginning on January 1, 1998 and extending through December 31, 1998.

Effective on September 17, 1998, you are directed to adjust the current limits for the following categories, as provided for under the terms of the current bilateral textile agreement:

Category	Adjusted twelve-month limit ¹
Sublevel in Group I	
363	12,931,701 numbers.
Group II	
237, 239, 330-332, 333/334/335, 336, 338/339, 340-345, 347/348, 349, 350/650, 351, 352/652, 353, 354, 359-C/659-C ² , 359-H/659-H ³ , 359-O ⁴ , 431-444, 445/446, 447/448, 459, 630-632, 633/634/635, 636, 638/639, 640, 641-644, 645/646, 647/648, 649, 651, 653, 654, 659-S ⁵ , 659-O ⁶ , 831-844, and 846-859, as a group.	733,897,492 square meters equivalent.
Sublevels in Group II	
239	5,970,410 kilograms.
331	498,266 dozen pairs.
336	136,243 dozen.
345	124,758 dozen.
352/652	3,045,680 dozen.
359-H/659-H	5,083,148 kilograms.
433	14,217 dozen.
435	25,159 dozen.
438	29,638 dozen.
442	42,233 dozen.
443	54,822 numbers.
444	80,719 numbers.

Category	Adjusted twelve-month limit ¹
631	5,247,940 dozen pairs.
633/634/635	1,655,026 dozen of which not more than 966,766 dozen shall be in Categories 633/634 and not more than 862,820 dozen shall be in Category 635.
638/639	6,567,352 dozen.
642	840,251 dozen.
Group II Subgroup	
333/334/335, 341, 342, 350/650, 351, 447/448, 636, 641 and 651, as a group.	76,796,124 square meters equivalent.
Within Group II Subgroup	
342	227,249 dozen.
350/650	136,712 dozen.
351	365,403 dozen.
447/448	20,983 dozen.
636	396,605 dozen.
651	490,340 dozen.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1997.

² Category 359-C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

³ Category 359-H: only HTS numbers 6505.90.1540 and 6505.90.2060; Category 659-H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

⁴ Category 359-O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359-C); 6505.90.1540 and 6505.90.2060 (Category 359-H).

⁵ Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

⁶ Category 659-O all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659-C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659-H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659-S).

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98-24965 Filed 9-16-98; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission of OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Reimbursement Information, Psychiatric Residential Treatment Centers Serving Children and Adolescents; TMA Form 771; OMB Number 0704-0295.

Type of Request: Reinstatement.

Number of Respondents: 20.

Responses per Respondent: 1.

Annual Responses: 20.

Average Burden per Response: 12 hours.

Annual Burden Hours: 240.

Needs and Uses: Respondents are psychiatric residential treatment centers (RTCs) seeking certification under the TRICARE program to provide needed services to eligible children and adolescents. The data collection instrument, i.e., TRICARE Form 771, will collect the necessary reimbursement information that will be used in calculating prospective all-inclusive per diem rates for new RTCs under the TRICARE program. Based on current trends, it is estimated that about 20 forms will be completed and submitted to the TRICARE program per fiscal year for RTCs seeking certification under the program.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: One-Time.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Allison Eydt.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DoD Health Affairs, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

Dated: September 11, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98-24910 Filed 9-16-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Public Meeting: With the Community College of the Air Force Board of Visitors To Review and Discuss Academic Policies and Issues Relative to the Operation of the College

AGENCY: Community College of the Air Force.

ACTION: Notice of meeting.

SUMMARY: The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting to review and discuss academic policies and issues relative to the operation of the college. Agenda items include a review of the operations of the CCAF and an update on the activities of the CCAF Policy Council.

Members of the public who wish to make oral or written statements at the meeting should contact First Lieutenant Cornel Taite, Designated Federal Officer for the Board, at the address below no later than 4:00 p.m. on October 22, 1998. Please mail or electronically mail all requests. Telephone requests will not be honored. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of the presentation materials must be given to First Lieutenant Cornel Taite no later than three days prior to the time of the board meeting for distribution. Visual aids must be submitted to First Lieutenant Cornel Taite on a 3½" computer disc in Microsoft PowerPoint format no later than 4:00 p.m. on October 22, 1998 to allow sufficient time for virus scanning and formatting of the slides.

DATES: The meeting will be held on Friday, November 6, 1998 at 8:00 a.m. in Vosler Academic Hall, 601 D St., Keesler Air Force Base MS 39534.

FOR FURTHER INFORMATION CONTACT: First Lieutenant Cornel Taite, (334) 953-7322, Community College of the Air Force, 130 West Maxwell Boulevard,

Maxwell Air Force Base, Alabama, 36112-6613, or through electronic mail at cotaite@max1.au.af.mil.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98-24929 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The S&T Special Programs Meeting in support of the HQ USAF Scientific Advisory Board will meet at Wright-Patterson Air Force Base, OH, on October 21-23, 1998 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to review the quality of the Air Force S&T Programs.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697-8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 98-24926 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The S&T Space Vehicle Meeting in support of the HQ USAF Scientific Advisory Board will meet at Kirtland, Air Force Base, NM, and Hanscom Air Force Base, MA, on November 9-13, 1998 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to review the quality of the Air Force S&T Programs.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697-8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 98-24927 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The S&T Sensors Panel Meeting in support of the HQ USAF Scientific Advisory Board will meet at Wright-Patterson Air Force Base, OH, on November 16-20, 1998 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to review the quality of the Air Force S&T Programs.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697-8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 98-24928 Filed 9-16-98; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Army

Intent to Grant an Exclusive License to Defense Technology Corporation of American

AGENCY: U.S. Army Research Laboratory.

ACTION: Notice of Intent.

SUMMARY: In compliance with 37 CFR 404 et seq., the Department of the Army hereby gives notice of its intent to grant to Defense Technology Corporation of America, a corporation having its principle place of business at 9125 Neosho Road, Casper, WY, 82604, an exclusive license relative to an ARL patent application concerning a less-lethal munition. Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence if any.

FOR FURTHER INFORMATION CONTACT: Micheal D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATT: AMSRL-CS-TT/Bldg. 433, Aberdeen Proving Ground, Maryland 21005-5425, Telephone, (410) 278-5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98-24883 Filed 9-16-98; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent Application Serial No. 09/038,925 entitled "System for Eliminating or Reducing Exemplar Noise Effects (Serene)" Navy Case No. 78,735.

ADDRESSES: Requests for copies of the patent application cited should be directed to the Naval Research Laboratory, Code 3008.2, 4555 Overlook Avenue, SW, Washington, DC 20375-5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Dr. Richard H. Rein, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW, Washington, DC 20375-5320, telephone (202) 767-7230.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: September 9, 1998.

Ralph W. Corey,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98-24931 Filed 9-16-98; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Naval Research Advisory Committee

AGENCY: Department of the Navy, DOD.

ACTION: Notice of meeting.

SUMMARY: The Naval Research Advisory Committee (NRAC) Panel on Global Positioning System (GPS) Vulnerability and Alternatives will meet to examine the vulnerabilities of the GPS on Navy and Marine Corps platforms and weapons systems. All sessions of the meeting will be devoted to briefings, discussions, and technical examination of information related to GPS vulnerabilities; the Department of the Navy's mitigation plans for platforms, weapons, communications, and intelligence systems as related to the projected threat; GPS modernization; and research, development, test, acquisition, and training activities to

improve GPS-related military readiness and precision navigation capabilities. All sessions of the meeting will be closed to the public.

DATES: The meeting will be held on Tuesday, September 22, from 8:00 a.m. to 5:00 p.m.; Wednesday, September 23, from 8:00 a.m. to 5:00 p.m.; and Thursday, September 24, 1998, from 8:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Office of Naval Research, 800 North Quincy Street, Arlington, Virginia, on September 22 and 23, 1998. On September 24, 1998, the meeting will be held at the DCS Corporation, 1225 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Diane Mason-Muir, Program Director, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217-5660, telephone number: (703) 696-6769.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2). All sessions of the meeting will be devoted to briefings and discussions involving technical examination of information related to vulnerabilities and deficiencies of the GPS on Navy and Marine Corps platforms and weapons systems. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in 5 U.S.C. section 552b(c)(1). Due to unavoidable delay in the administrative process of preparing for this meeting, the normal 15 day notice could not be provided.

Dated: September 10, 1998.

Ralph W. Corey,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 98-24930 Filed 9-16-98; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF ENERGY

International Energy Agency Meeting

AGENCY: Department of Energy.

ACTION: Notice of meeting.

SUMMARY: A meeting of the Industry Advisory Board (IAB) to the International Energy Agency will be held on September 25, 1998, at the IEA's headquarters in Paris, France 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.

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 September 25, 1998, at the headquarters of the IEA, 9, rue de la Fédération, 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 headquarters on September 25, including a preparatory encounter among company representatives from approximately 8:45 a.m. to 9:30 a.m. The agenda for the preparatory encounter among company representatives is to elicit views regarding items on the agenda for the SEQ meeting. The SEQ's agenda is under the control of the SEQ. It is expected the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of Summary Record of the 92nd Meeting
3. Policy and Legislative Developments in Member Countries
 - U.S. Energy Policy and Conservation Act
4. Current IAB Activities
5. The 1998 SEQ Work Program
 - Preparations for Emergency Response Exercise 1998
 - Update on use of internet for SEQ documents and communications
 - IAB recommendations on the exercise
 - Emergency Reference Guide

- Emergency Management Manual
6. The 1999 SEQ Work Program
 - Seminar on Emergency Reserve Issues 1999
 7. Transport Sector Oil Security Issues and Prospects
 - Road vehicles for the future
 8. World Energy Outlook Update
 9. Implications of Global Spare Production Capacity for Emergency Response
 10. Emergency Reserve Situation of IEA Countries
 - Emergency reserve and net import situation of IEA countries on April 1, 1998 and July 1, 1998
 - Emergency reserve situation of IEA candidate countries
 11. Emergency Data System and Related Questions
 - Base Period Final Consumption—Q197-Q497
 - Monthly Oil Statistics (MOS) April 1998
 - MOS May 1998
 - MOS June 1998
 - Quarterly Oil Forecast—Q498
 12. Membership Criteria for IEA Candidate Countries
 - Applications for IEA Membership: status and prospects
 13. Workshop in Brazil on Enhancing Oil Sector Energy Security
 14. Treatment of Petroleum Coke for IEA Emergency Reserve Purposes—Proposal by the Spanish Administration
 15. IEA Medium-Term Financial Plan
 16. Updated Schedule of Emergency Response Reviews
 - Progress report of the review program

As authorized by 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., September 11, 1998.

Mary Anne Sullivan,
General Counsel.

[FR Doc. 98-24956 Filed 9-16-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Notice of Revised Draft Request for Proposals for Waste Acceptance and Transportation Services**

AGENCY: Office of Civilian Radioactive Waste Management U.S. Department of Energy.

ACTION: Notice of availability of revised draft request for proposals.

SUMMARY: This Notice announces the availability, within the next two weeks, of a revised draft Request for Proposals (RFP), concerning the acquisition of commercial spent nuclear fuel acceptance and transportation services. The draft RFP was revised to reflect current Office of Civilian Radioactive Waste Management (OCRWM) program plans, and to address a number of comments received from industry, utilities and other interested parties based on the draft RFP dated November 24, 1997.

ADDRESSES: The revised draft will be available on the OCRWM Home Page at the INTERNET address <http://www.rw.doe.gov/>.

FOR FURTHER INFORMATION CONTACT: Contracting Officer (HR-542), U.S. Dept. of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585

SUPPLEMENTARY INFORMATION: OCRWM is responsible under NHPA, for accepting and transporting spent nuclear fuel (SNF) from commercial nuclear reactor sites to a federal facility for ultimate disposal. The Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste (10 CFR part 961) details the arrangements between the Department of Energy (DOE) and the owners and generators of SNF (Purchasers) for the Department to accept the SNF at the Purchasers' sites for transport to a federal facility. Section 137(a)(2) of the NHPA requires the utilization of private industry to the "fullest extent possible" in the transportation of SNF.

In May 1996, OCRWM published in the **Federal Register** (61 FR 26508) and the *Commerce Business Daily*, a Request for Expression of Interest and Comments on a previous draft Statement of Work for these services. In July 1996, comments were received from interested parties at a presolicitation conference. In December 1996, OCRWM issued a draft RFP that requested comments on all aspects of its proposed contracting approach embodied in that draft document. In February 1997, OCRWM held another presolicitation conference to receive additional comments and questions on the first draft RFP. In December 1997, OCRWM published in

the **Federal Register** (62 FR 63700) and the *Commerce Business Daily* a Request for Comments on a revised draft RFP. Comments were received, reviewed and many were incorporated into the version noticed herein.

The revised draft RFP noticed herein conforms to the plans and schedules in the recently released OCRWM Program Plan (Civilian Radioactive Waste Management Program Plan, Rev. 2, July 1998, DOE/RW-0504). Under current plans, a licensed geologic repository could be operational and transportation services could begin in 2010. In the near-term the Program plans to focus its efforts on those activities necessary to reach a repository siting decision, and further work on this RFP will be deferred until the destination is determined and transportation preparation becomes a near-term objective. A siting decision is scheduled for FY 2001. When a siting decision has been made, the program may issue another draft RFP and/or seek additional comments. The Department of Energy is therefore not soliciting comments on this version of the draft RFP at this time.

This Notice should not be construed as a commitment to issue any RFP concerning the subject of this Notice or a final RFP.

Issued in Washington, D.C. on September 11, 1998.

Scott E. Sheffield,

Director, Program Services Division, Office of Headquarters Procurement Services.

[FR Doc. 98-24957 Filed 9-16-98; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP98-150-000 and CP98-151-000]

Millennium Pipeline Co., L.P. and Columbia Gas Transmission Corp.; Notice of Meeting Attendance

September 11, 1998.

The environmental staff will attend a U.S. Fish and Wildlife Service (FWS) meeting about the Millennium Project with other federal and state resource agencies on September 23, 1998. The meeting will be in Cortland, New York, at the FWS Office. A memorandum summarizing issues identified during the meeting will be filed in the public record for these dockets.

Information about the meeting may be obtained from: Diane Mann-Klager (FWS) at (607) 753-9334.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98-24889 Filed 9-16-98; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6162-7]

National Advisory Council for Environmental Policy and Technology Reinvention Criteria Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Pub. L. 92463, EPA gives notice of a meeting of the National Advisory Council for Environmental Policy and Technology's (NACEPT) Reinvention Criteria Committee. NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues.

The NACEPT Reinvention Criteria Committee (RCC) has been asked to help the Agency understand how incentives can be used most successfully to inspire firms, companies, communities, and individuals to go beyond mere compliance with existing regulations and to begin the process of addressing outstanding environmental problems. In particular, the committee is focusing on the following questions:

- What opportunities exist for EPA to use incentives to promote environmental stewardship in industry? In local communities? In the general public?

- How can EPA evaluate the effectiveness of incentives to encourage environmental stewardship that leads to improved environmental results? How can EPA measure the impact that incentives have on public confidence? What criteria should be used to decide whether the use of incentives is appropriate?

- How can the concept of performance ladders be used to tailor incentives most effectively?

This meeting is being held to provide the EPA with perspectives from representatives of state, local, and tribal governments, environmental organizations, academia, industry, and NGOs.

DATES: The RCC will hold a two-day public meeting at the Sheraton City

Centre Hotel, 1143 New Hampshire Avenue, NW, Washington, D.C. 20037, on Monday September 28, and Tuesday September 29, 1998 from 8:30 a.m. to 5:00 p.m.

ADDRESSES: Materials or written comments may be transmitted to the committee through Gwendolyn Whitt, Designated Federal Officer, NACEPT RCC, U.S. EPA, Office of Cooperative Environmental Management (1601F), 401 M Street, SW, Washington, D.C. 20460. There will also be an opportunity for the public to make comments directly to the committee during the first day of the meeting. Requests to make public comments must be submitted no later than September 14, 1998 to Gwendolyn Whitt, at the address above or faxed to (202) 260-6882.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Whitt, Designated Federal Officer, NACEPT, at (202) 260-9484.

Dated: September 2, 1998.

Gwendolyn Whitt,

Designated Federal Officer.

[FR Doc. 98-24952 Filed 9-16-98; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

* * * * *

DATE & TIME: Tuesday, September 22, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C. Matters concerning participation in civil actions or proceeding or arbitration. Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

DATE & TIME: Thursday, September 24, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (ninth floor)

STATUS: This meeting will be open to the public

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes. Advisory Opinion 1998-13: Lawrence, O'Donnell, Marcus, L.L.C. by counsel, Lyn Utrecht. Final Audit Report on the Mapp for Congress Committee.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer, Telephone: (202) 694-1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98-25039 Filed 9-15-98; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission,

Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203-011601-001

Title: SUNMAR/FESCO Intermodal

Cooperative Working Agreement

Parties:

SUNMAR Container Lines, Inc.
FESCO Intermodal, Inc.

Synopsis: The proposed modification authorizes the parties to jointly charter vessels operated under the agreement and to obtain, discuss, and exchange information relating to any aspect of their operations in the trade.

Agreement No.: 224-201059

Title: West Gulf Intermodal Marine Terminal Operator's Conference

Parties:

Barbours Cut Intermodal Services;
Ceres Terminals, Inc.;
Fairway Terminals Corporation;
Port-Cooper/T. Smith Stevedoring Co.;
Shippers Stevedoring Co., Inc.;
Southern Stevedoring Co., Inc.;
Strachan Shipping Company

Synopsis: Under the agreement, the conference parties will meet to confer, discuss, exchange information and make recommendations with respect to rates, charges, practices, legislation, regulations and in matters of concern to the maritime shipping industry. The parties will consult with one another with relation to rates and charges and rules and regulations for, or in connection with, services and facilities, including, but not limited to, throughput, storage, maintenance and repair, equipment rental and leasing, inspection fees, drayage, interchange, demurrage, free time,

loading and unloading, licenses, preferential assignments, operating hours, and other privileges, charges, classifications, rules, regulations and practices. The parties may use this agreement to establish minimum rates or any uniform rules or regulations pertaining to any and all goods and services of any character, offered by any of the parties, as they may from time to time determine. There is no specific termination date for the agreement.

By Order of the Federal Maritime Commission.

Dated: September 11, 1998.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98-24876 Filed 9-16-98; 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 October 1, 1998.

A. Federal Reserve Bank of Atlanta
(Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Popekili Partners, L.P.*, Griffin, Georgia; to retain the voting shares of United Bank Corporation, Barnesville, Georgia, and thereby indirectly acquire United Bank, Zebulon, Georgia.

Board of Governors of the Federal Reserve System, September 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24941 Filed 9-16-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM**Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies**

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 2, 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. *Robert Rice*, Pipestone, Minnesota; to acquire voting shares of Citizens State Bank of Arlington, Arlington, South Dakota.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24973 Filed 9-16-98; 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 October 12, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Oconee Financial Corporation*, Watkinsville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Oconee State Bank, Watkinsville, Georgia.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Northern Star Financial, Inc.*, Mankato, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Northern Star Bank, Mankato, Minnesota.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *California Community Financial Institutions Fund Limited Partnership*, San Francisco, California; Belvedere Capital Partners, Inc., San Francisco, California; and California Financial Bancorp, Newport Beach, California; to acquire 100 percent of the voting shares of The Bank of Orange County, Fountain Valley, California.

2. *California Community Financial Institutions Fund Limited Partnership*, San Francisco, California; Belvedere Capital Partners, Inc., San Francisco, California; and California Financial Bancorp, Newport Beach, California; to merge with Downey Bancorp, Downey, California, and thereby indirectly acquire Downey National Bank, Downey, California.

Board of Governors of the Federal Reserve System, September 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24943 Filed 9-16-98; 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 October 12, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Travelers Rest Bancshares, Inc.*, Travelers Rest, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Travelers Rest, Travelers Rest, South Carolina.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *The Colonial BancGroup, Inc.*, Montgomery, Alabama; to merge with TB&T, Inc., Dallas, Texas, and thereby indirectly acquire Texas Bank & Trust, Dallas, Texas.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Gold Banc Corporation, Inc.*, Leawood, Kansas; to acquire up to 100 percent of the voting shares of Citizens

Bancorporation, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Citizens Bank of Tulsa, Tulsa, Oklahoma.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24970 Filed 9-16-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-24490) published on pages 48732 and 48733 of the issue for Friday, September 11, 1998.

Under the Federal Reserve Bank of Minneapolis heading, the entry for Lake Bank Shares, Inc., Employee Stock Ownership Plan, Albert Lea, Minnesota, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. *Lake Bank Shares, Inc., Employee Stock Ownership Plan*, Albert Lea, Minnesota; to become a bank holding company by acquiring 30 percent of the voting shares of Lake Bank Shares, Inc., Albert Lea, Minnesota, and thereby indirectly acquire Security Bank Minneapolis, Albert Lea, Minnesota and First State bank of Emmons, Emmons, Minnesota.

Comments on this application must be received by October 8, 1998.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24972 Filed 9-16-98; 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 October 1, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Davis Bancorporation, Inc.*, Davis, Oklahoma to acquire an additional 5.26 percent, for a total of 14.89 percent, of the voting shares of FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a thrift depository institution pursuant to section 225.28(b)(4) of Regulation Y.

2. *First Centralia Bancshares, Inc.*, Centralia, Kansas; to acquire an additional 5.26 percent, for a total of 14.89 percent, of the voting shares of FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a thrift depository institution pursuant to section 225.28(b)(4) of Regulation Y.

3. *Morrill Bancshares, Inc.*, Sabetha, Kansas; to acquire directly and indirectly an additional 15.78 percent, for a total of 44.67 percent, of the voting shares of FBC Financial Corporation, Claremore, Oklahoma, and thereby indirectly acquire 1st Bank Oklahoma, Claremore, Oklahoma, and thereby engage in operating a thrift depository institution pursuant to section 225.28(b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, September 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24942 Filed 9-16-98; 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 October 2, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Compass Bancshares, Inc.*, Birmingham, Alabama; to acquire Albrecht & Associates, Inc., Houston, Texas, and thereby engage in financial and advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

2. *TIB Financial Corporation*, Key Largo, Florida; to acquire through its subsidiary, TIB Software & Services, Inc., Key Largo, Florida, a 30 percent interest in ERAS Joint Venture, Miami, Florida, and thereby engage in data processing activities, pursuant to § 225.28(b)(14) of Regulation Y.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *ANB Corporation*, Muncie, Indiana; to retain 15 percent of the voting shares of American National Trust and Investment Management Company, Muncie, Indiana, and thereby engage in trust company functions, pursuant to § 225.28(b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, September 14, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-24971 Filed 9-16-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, September 23, 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. Proposals regarding the design and budget for a Federal Reserve Bank's building project.

2. Personnel actions (appointments, promotions, assignments, and salary actions) involving individual Federal Reserve System employees.

3. 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: September 15, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-25103 Filed 9-15-98; 3:55 pm]

BILLING CODE 6210-01-P

OFFICE OF GOVERNMENT ETHICS

Submission for OMB Review; Comment Request: Proposed New Public Financial Disclosure Access Customer Service Survey

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice.

SUMMARY: The Office of Government Ethics has submitted the information

collection form proposed in this notice to the Office of Management and Budget (OMB) for review and three-year approval under the Paperwork Reduction Act.

DATES: Comments on this proposal should be received by October 19, 1998.

ADDRESSES: Comments should be sent to Joseph F. Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; telephone: 202-395-7316.

FOR FURTHER INFORMATION CONTACT:

William E. Gressman, Associate General Counsel, Office of the General Counsel and Legal Policy, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917; telephone: 202-208-8000, ext. 1110; TDD: 202-208-8025; FAX: 202-208-8037. A copy of the proposed survey may be obtained, without charge, by contacting Mr. Gressman.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics has submitted its proposed customer service survey form described below to OMB for review under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) and three-year approval thereunder.

The Office of Government Ethics is planning to assess, through the proposed "Public Financial Disclosure Access Customer Service Survey" form, requester satisfaction with the service provided by OGE in responding to requests by members of the public for access to copies of Standard Form (SF) 278 Executive Branch Personnel Public Financial Disclosure Reports on file with the Office. Most of the SF 278 reports available at OGE are those filed by executive branch Presidential appointees subject to Senate confirmation. Requests for access to SF 278 reports are made pursuant to the special public access provision of section 105 of the Ethics in Government Act of 1978 (the Ethics Act), as codified at 5 U.S.C. appendix, section 105, and 5 CFR 2634.603 of OGE's executive branchwide regulations thereunder, by completing an OGE Form 201, "Request to Inspect or Receive Copies of SF 278 Executive Branch Personnel Public Financial Disclosure Report or Other Covered Record."

The Office of Government Ethics will distribute the new access customer service survey forms to requesters along with their copies of requested SF 278 reports, with instructions asking them to complete and return the survey to OGE via the self-contained postage-paid postcards (the reverse side of the survey

form, when folded, becomes a preaddressed postcard). The purpose of the survey will be to determine through customer responses how well OGE is responding to such requests and how the Agency can improve its customer service in this important area.

Pursuant to the Paperwork Reduction Act, OGE is not including in its public burden estimate for the new access customer service survey form the limited number of access requests filed by other Federal agencies or Federal employees. Nor is OGE including in that estimate the also limited number of requests for copies of other records covered under the special Ethics Act public access provision (such as certificates of divestiture), since the survey will only be sent to persons who request copies of SF 278 reports. As so defined and assuming a 100% return rate, the total number of access survey forms for copies of SF 278s estimated to be filed annually at OGE over the next three years by members of the public (primarily by news media representatives, public interest group members and private citizens) is 186. This estimate is based on a calculation of the average number of underlying access requests for copies of SF 278 reports received at OGE over the past two calendar years—1996 (152 requests) and 1997 (220 requests). The estimated average amount of time to read the instructions on the new customer service survey form and complete the form is three minutes. Thus, the overall estimated annual public burden for the proposed OGE Public Financial Disclosure Access Customer Service Survey will be nine hours (186 forms \times 3 minutes per form, with the number of hours rounded off from 9.3 to 9).

On June 19, 1998, OGE published its first round notice of the forthcoming request for paperwork clearance for this new customer survey. See 63 FR 33668, with comments due by September 2, 1998. The Office of Government Ethics did not receive any comments or requests for copies of the proposed survey form.

In this second round notice, public comment is again invited on each aspect of OGE's proposed new access customer service survey form, including specifically views on: the need for and practical utility of this new collection of information; the accuracy of OGE's public burden estimate; the potential for enhancement of quality, utility and clarity of the information to be collected; and the minimization of burden (including the possibility of use of information technology). The Office of Government Ethics, in consultation with OMB, will consider all comments

received, which will become a matter of public record.

Approved: September 14, 1998.

F. Gary Davis,

Deputy Director, Office of Government Ethics.

[FR Doc. 98-24968 Filed 9-16-98; 8:45 am]

BILLING CODE 6345-01-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Science Board to the Food and Drug Administration.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 21, 1998, 9 a.m. to 4 p.m.

Location: Washington Plaza Hotel, Washington Room, 10 Thomas Circle, NW., Washington, DC.

Contact Person: Susan K. Meadows, Office of Science (HF-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-4591, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 12603. Please call the Information Line for up-to-date information on this meeting.

Agenda: Information will be presented to the board regarding broad scientific and technical issues including: (1) A proposal for review of research conducted at the Center for Food Safety and Applied Nutrition, (2) the process for external peer review of research programs, (3) operational models for FDA science and research management and coordination, and (4) scientific issues of interest to FDA stakeholders.

Procedure: On October 21, 1998, from 10 a.m. to 4 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending

before the committee. Written submissions may be made to the contact person by October 1, 1998. Oral presentations from the public will be scheduled between approximately 2:30 p.m. and 3:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person by October 1, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On October 21, 1998, from 9 a.m. to 10 a.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The board will discuss nominations for the FDA Awards for Scientific Achievement. Such discussion in a public meeting would disclose information of a personal nature and would constitute an invasion of personal privacy.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 10, 1998.

William B. Schultz,

Acting Commissioner of Food and Drugs.

[FR Doc. 98-24865 Filed 9-16-98; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA-R-0074]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed

information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Income and Eligibility Verification System (IEVS) and Supporting Regulations in 42 CFR 435.940-435.965; *Form No.:* HCFA-R-0074 (OMB# 0938-0467); *Use:* Section 1137 of the Social Security Act requires Medicaid State agencies and other federally funded welfare agencies to request income and resource data from certain federal agencies, State wage information collection agencies, and State unemployment compensation agencies through an IEVS. The purpose of the IEVS is to ensure that only eligible individuals receive benefits.; *Frequency:* Annually; *Affected Public:* State, local, or tribal government; *Number of Respondents:* 54; *Total Annual Responses:* 54; *Total Annual Hours:* 131,390.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2-14-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: September 8, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98-24882 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Care Financing Administration**

[Document Identifier: HCFA-R-259]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Evaluation of the EverCare Demonstration; *Form No.:* HCFA-R-259; *Use:* This survey will capture information on the quality of capitated Medicare coverage to nursing home residents, such as the description of the person, information regarding enrollment / disenrollment, quality of life, satisfaction including issues of access to services, advance medical directives, general health, and functional status. This information will be used to support analyses of enrollment decisions, access to services and providers, and outcomes for both the enrollee and family members. The underlying premise of the EverCare demonstration is that closer attention to primary care needs of high-risk patients through the use of nurse practitioners and/or physicians assistants can reduce the use of hospitals (and emergency rooms). *Frequency:* On occasion; *Affected Public:* Individuals or Households; *Number of Respondents:* 3,150; *Total Annual Responses:* 3,150; *Total Annual Hours:* 1,962.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your

address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room N2-14-26, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: September 4, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Security and Standards Group, Health Care Financing Administration.

[FR Doc. 98-24932 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Health Care Financing Administration**

[Document Identifier: HCFA-R-224]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Collection of Managed Care Data Using the Uniform Institutional Providers Form (HCFA-1450/UB-92) and Supporting Statute Section 1853(a)(3) of the Balanced

budget Act of 1997; *Form No.:* HCFA-R-224 (OMB No. 0938-0711); *Use:* Section 1853(a)(3) of the Balanced Budget Act (BBA) requires Medicare+Choice organizations, as well as eligible organizations with risk-sharing contracts under section 1876, to submit encounter data. Data regarding inpatient hospital services are required for periods beginning on or after July 1, 1997. These data may be collected starting January 1, 1998. Other data (as the Secretary deems necessary) may be required beginning July 1, 1998.

The BBA also requires the Secretary to implement a risk adjustment methodology that accounts for variation in per capita costs based on health status. This payment method must be implemented no later than January 1, 2000. The encounter data are necessary to implement a risk adjustment methodology.

Hospital data from the period, July 1, 1997-June 30, 1998, will serve as the basis for plan-level estimates of risk adjusted payments. These estimates will be provided to plans by March, 1999. Encounter data collected from subsequent time periods will serve as the basis for actual payments to plans for CY 2000 and beyond.

In implementing the requirements of the BBA, hospitals will submit data to the managed care plan for enrollees who have a hospital discharge using the HCFA-1450 (UB-92), Uniform Institutional Provider Claim Form. Encounter data for hospital discharges occurring on or after July 1, 1997 are required. While submission from the hospital to the plan is required, plans are provided with an alternate submission route for the start-up year.

Special procedures have been identified to ensure that hospital encounter data are submitted for discharges occurring between July 1, 1997 and June 30, 1998, the start-up year. HCFA has identified three alternatives for the submission of hospital encounter data for discharges during the start-up year, including the following:

Option 1: The Plan will have a hospital submit UB-92s or Medicare Part A ANSI ASC X12 837 (ANSI 837) records using the traditional HMO "No Pay" bill method.

Option 2: The Plan can currently produce a complete UB-92/ANSI 837 and will hold the data until the fiscal intermediary (FI) can accept it.

Option 3: The Plan will submit an abbreviated UB-92 data set via an alternative route.

During the start up year, the plan is expected to establish an electronic data linkage to a FI to be determined by

HCFA. HCFA will assist Plans in initiating discussions with their FI. By July 15, 1998, the Plan is expected to have completed this linkage, including testing of the linkage, and to be capable of transmitting hospital encounter data to a FI. Data for the start-up year must be transmitted to the plan's FI by September 18, 1998. All data with discharge dates after July 1, 1998 will be transmitted using this linkage. (See Appendix III for additional information on the transmission of data to HCFA.) Each plan and/or contract will use a single FI. HCFA will establish a series of interim deadlines to ensure that plans are making sufficient progress toward accomplishing this linkage no later than July 15, 1998.

After plans have established linkages to a FI, hospitals will submit HCFA-1450 (UB-92) forms to the managed care plan. The HCFA-1450 (UB-92) form is identical to the one used by hospitals in billing for Medicare fee-for-service claims. After receiving the pseudo claim from the hospital, the plan attaches the plan identifier, which is the HCFA assigned managed care organization (MCO) Contract Number, and submits the pseudo-claim electronically to the fiscal intermediary (FI). The data processing flow by the FI is very similar to current claims processing for the fee-for-service system, except that no payment is authorized to the plan. Pseudo claims will flow through the FI to our Common Working File (CWF) and will be retained by HCFA.

Frequency: On occasion; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and Federal government; *Number of Respondents:* 1.9 million; *Total Annual Responses:* 1.9 million; *Total Annual Hours:* 6,547.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 8, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98-24881 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA-R-228]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because training of respondents to complete the collection of information will be required before the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320. This collection is necessary to ensure compliance with section 1854 of the Balanced Budget Act. Under Part C of the Social Security Act and 42 CFR 422.306 of the regulations, a Medicare+Choice (M+C) organization is required to submit an Adjusted

Community Rate (ACR) proposal prior to 05/01/99, which is used by M+C organizations to price its benefit packages (M+C plan). Without emergency approval entities interested in participating in the M+C program will not be afforded enough time to thoroughly understand the requirements and submit the required application prior to the 05/01/99 deadline. A training session is being scheduled for November 1998 to provide interested parties sufficient information to properly complete the ACR. These organizations may need to develop alternate methods to accumulate data to include in their ACR submissions. Without the training session, some organizations may submit ACRs that are not complete, timely, or accurate. HCFA has the authority to impose sanctions or may choose not to renew the organization's contract. As a result, public harm is likely to result because eligible individuals may not receive the M+C health insurance options stipulated by the BBA.

HCFA is requesting OMB review and approval of this collection within eleven working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individuals designated below within ten working days. During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Request: New collection.

Title of Information Collection: Managed Care Adjusted Community Rate (ACR) Proposal.

Form Number: HCFA-R-228 (OMB approval #: 0938-NEW).

Use: This collection effort will be used to price the M+C plan offered to Medicare beneficiaries by an M+C organization. Organizations submitting the Adjusted Community Rate form would include all M+C organizations plus any organization intending to contract with HCFA as a M+C organization. These current M+C organization contractors will be required to submit this form no later than May 1, 1999 for the calendar year 2000.

Frequency: Annually.

Affected Public: Businesses or other for profit, Not-for-profit institutions.

Number of Respondents: 400.

Total Annual Responses: 400.

Total Annual Hours Requested: 40,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designees referenced below, within ten working days:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise
Standards, Room N2-14-26, 7500
Security Boulevard, Baltimore, MD
21244-1850, Fax Number: (410) 786-
0262, Attn: John Rudolph HCFA-R-
228

and,

Office of Information and Regulatory
Affairs, Office of Management and
Budget, Room 10235, New Executive
Office Building, Washington, DC
20503, Fax Number: (202) 395-6974
or (202) 395-5167, Attn: Allison
Herron Eydt, HCFA Desk Officer

Dated: September 10, 1998.

John P. Burke III,

*HCFA Reports Clearance Officer,
HCFA, Office of Information Services,
Security and Standards Group, Division of
HCFA Enterprise Standards.*

[FR Doc. 98-24933 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier HCFA-R-257]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this

collection of information, including any of the following subjects: (1) The necessity of the utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. Due to the unanticipated event and the fact that this collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320, we are requesting an emergency review.

With the creation of the Medicare+Choice program, as required by the Balanced Budget Act of 1997 (Pub. L. 105-33), new provisions have been implemented to coordinate Medicare beneficiaries' choices through the Medicare+Choice organizations. Specifically, the provisions require the establishment of procedures through which Medicare+Choice elections are made and changed, including the form and manner in which such elections are made and changed, as required by section 4001 of the Balanced Budget Act (BBA) of 1997. This necessitated a need to create an additional mechanism for beneficiaries make election to disenroll to original Medicare. This also provided the opportunity to collect information on beneficiary disenrollment behavior, as the BBA provisions required the development of quality and performance measures, specifically including collection of information regarding disenrollment rates. Collection of disenrollment reason data will promote active, informed selection by beneficiaries of options as well as to conduct quality control studies. By allowing beneficiaries the ability to request the disenrollment forms from the customer teleservice representatives, HCFA will ultimately be providing the beneficiary with more flexibility and options.

The purpose of this submission is to request approval of a disenrollment form that beneficiaries will be able to obtain from the Medicare+Choice toll-free number that is to be established (as required by the BBA). Such a form

allows the beneficiary to disenroll from a Medicare+Choice organization to original (fee-for-service) Medicare and allows HCFA to collect information for analysis of disenrollment rates and reasons for disenrollment. The Medicare+Choice toll-free number will be operational in November 1998 and a more expedient review is needed in order for the form to be ready to provide to the beneficiaries when the call center is operational.

HCFA is requesting OMB review and approval of this collection within eleven working days, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below, within ten working days of publication of this notice in the **Federal Register**.

During this 180-day period, HCFA will pursue OMB clearance of this collection as stipulated by 5 CFR 1320.

Type of Information Collection

Request: New Collection.

Title of Information Collection:

Medicare+Choice Disenrollment Form.

Form Nos.: HCFA-R-257.

Use: The primary purpose of the new form is to receive and process the beneficiary's request for disenrollment from a Medicare+Choice plan and to return to original (fee-for-service) Medicare. The secondary purpose of the new form is to obtain the reason for the disenrollment, for analysis and reporting.

Frequency: As requested by beneficiary.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, and Federal government.

Number of Respondents: 60,000 annually.

Total Annual Responses: 20,000 in first year, 60,000 thereafter.

Total Annual Hours: 3,960.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at <http://www.hcfa.gov/regs/prdact95.htm>, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and record keeping requirements must be mailed and/or faxed to the designee referenced below, within ten working days of

publication of this collection in the **Federal Register**:

Health Care Financing Administration,
Office of Information Services,
Security and Standards Group,
Division of HCFA Enterprise
Standards, Room N2-14-26, 7500
Security Boulevard, Baltimore, MD
21244-1850, Fax Number: (410) 786-
0262, Attn: Louis Blank HCFA-R-257
and

Office of Information and Regulatory
Affairs, Office of Management and
Budget, Room 10235, New Executive
Office Building, Washington, DC
20503, Fax Number: (202) 395-6974
or (202) 395-5167, Attn: Allison
Herron Eydt, HCFA Desk Officer.

Dated: September 10, 1998.

John P. Burke III,

*HCFA Reports Clearance Officer, HCFA,
Office of Information Services, Security and
Standards Group, Division of HCFA
Enterprise Standards.*

[FR Doc. 98-24934 Filed 9-16-98; 8:45 am]

BILLING CODE 4120-03-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Partners for the National Organ and Tissue Donation Initiative

AGENCY: Health Resources and Services
Administration, HHS.

ACTION: Notice of opportunity for
partnerships.

SUMMARY: The Health Resources and
Services Administration (HRSA),
Department of Health and Human
Services (DHHS), announces the
opportunity for public or private
nonprofit or for-profit organizations or
corporations to develop partnerships
with DHHS to carry out specific
components of the National Organ and
Tissue Donation Initiative.

DATES: To receive consideration,
requests to participate as a partner must
be received by D.W. Chen, M.D., M.P.H.,
Acting Director, Division of
Transplantation, Office of Special
Programs (OSP), HRSA. There are no
deadlines applicable to this partnership
opportunity.

FOR FURTHER INFORMATION CONTACT: Dr.
D.W. Chen, Acting Director, Division of
Transplantation, OSP, HRSA, Parklawn
Building, Room 7-29, 5600 Fishers
Lane, Rockville, Maryland, 20857, (301)
443-7577.

SUPPLEMENTARY INFORMATION:

Background

While medical advances now enable
more than 20,000 Americans per year to
receive organ transplants that save or
enhance their lives, not enough organs
are available to help everyone in need.
As a result, about 4,000 people die in
the U.S. each year—about 10 every
day—while waiting for a donated
kidney, liver, heart, lung, or other organ.
Today, more than 56,000 people are on
the national organ transplant waiting
list, yet fewer than 9,000 people became
organ donors in 1997. Two major
impediments to donation are that many
families of potential donors are not
asked about donation possibilities, and
many who are asked refuse.

As part of DHHS' efforts to increase
organ and tissue donation, DHHS has
developed the National Organ and
Tissue Donation Initiative (Initiative) to
implement strategies for surmounting
current barriers to donation. The goals
of the Initiative are to: (1) increase
consent to donation, (2) ensure that
families of potential donors are given
the option of donation, and (3) focus
research and increase knowledge about
what works to increase donation.

To address these goals, DHHS will
create a broad national partnership of
public, private, and volunteer
organizations to encourage Americans to
agree to organ and tissue donation. The
partnerships will emphasize the need to
make decisions about donation and to
share these decisions with one's family,
targeting the general public as well as
minority populations.

The Initiative also will address health
care providers, consumers, and
physicians so that all potential donors
are referred by hospitals to organ
procurement organizations (OPOs) and
families may have the option to donate
or not to donate.

Finally, the Initiative encourages
research and evaluation to identify
effective strategies for increasing
donation. This Initiative will build on
more than a decade of experience
gained from government, private, and
volunteer efforts.

Requirements for Partnership

The Initiative is seeking partnerships
with public or private nonprofit or for-
profit organizations or corporations to
develop and implement strategies
addressing the goals and incorporating
the messages of this Initiative with the
overall aim of increasing organ and
tissue donation and focusing on relevant
target groups, including minorities,
health care professionals, government
agencies, community organizations,
businesses, the general public and

others. DHHS will reserve the right to
determine the form, content, and
methods utilized in strategies proposed
by prospective partners. The Initiative
envisioned partnerships with a wide
variety of groups and corporations that
can reach the American public with the
Initiative's message and help to increase
the number of Americans willing to be
organ and tissue donors. These partners
would assist in the development and
implementation of programs and the
development and dissemination of
information materials. Evaluation of
partnership efforts is highly
recommended. Partners' duties will
include:

(1) Identification of strategies to
increase organ and tissue donation and,
where appropriate, evaluation protocols
for measuring the impact of these
strategies; and

(2) Implementation of identified
strategies with evaluation procedures,
where appropriate.

Specific partnerships may be
dependent on the availability of
resources to perform the partnership
activities. Partners may collaborate with
other partners as one way to leverage
and maximize resources.

Eligibility for Partnership

To be eligible, an interested party
must be: (1) a public or a private
nonprofit or for-profit organization or
corporation, and (2) an entity that, by
virtue of its nature and purpose, has a
legitimate interest in the Nation's
health.

Expressions of Interest

Each request for partnership should
be in writing and contain information
pertinent to the partnership
opportunity.

Evaluation Criteria

The partners will be selected by the
Division of Organ Transplantation,
HRSA, in consultation with the Office of
the Secretary, DHHS, based on the
following evaluation criteria:

(1) The interested party's
qualifications and capability to develop,
implement, and (where appropriate)
evaluate strategies to increase organ and
tissue donation that are congruent with
the goals and messages of this Initiative;

(2) The ability of the interested party
to provide or acquire resources for the
development, implementation, and
evaluation (as appropriate) of the
proposed strategy and the interested
party's capability of reaching the
specific population(s) targeted by the
strategy;

(3) A description of the interested
party's dealings with DHHS.

In addition, the Government will evaluate carefully whether to enter into a partnership with an entity that would be deemed a "prohibited source" under the Standards of Ethical Conduct for Employees of the Executive Branch, and may choose to deny a partnership with a "prohibited source." A prohibited source has been defined in 5 CFR 2635.203(d) as any person or entity that (1) is seeking official action by the agency planning the event, (2) does business or seeks to do business with that agency, (3) conducts activities regulated by that agency, (4) has interests that may be substantially affected by the performance or nonperformance of the official duties of an employee of that agency; or (5) is an organization the majority of whose members are described in (1)-(4) above. While partnerships with "prohibited sources" are not necessarily prohibited, the Government must weigh the importance of working with a given "prohibited source" against the appearance of a conflict of interest before that source may be accepted as a partner.

Neither this notice nor actions pursuant thereto create a property right or right of any kind in any natural or artificial person requesting partnership. DHHS has the unilateral right to refuse to enter into a partnership arrangement with any entity, and the exercise of this right is solely within the discretion of DHHS.

Other Information

Prior to the selection of the partners, DHHS staff involved in the Initiative will meet separately with those interested parties who best meet the evaluation criteria. In those situations where the Food and Drug Administration regulates the labeling of products manufactured by the partners, the inclusion of Initiative information on such products will be subject to FDA review and may require agency authorization, depending on how and the context in which the information is to be used. Further, as a general rule, restrictions will apply to the use of Initiative indicia so as to avoid suggestions that DHHS, or any other department or agency of the Federal Government, endorses any of the products involved in the Initiative. Once details of the program have been mutually agreed upon, partners will be required to enter into a partnership agreement with DHHS setting forth the rights and responsibilities of the partner and DHHS.

Dated: September 11, 1998.

Claude Earl Fox,
Administrator.

[FR Doc. 98-24911 Filed 9-16-98; 8:45 am]

BILLING CODE 4160-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: August 1998

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of August 1998, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
Aginsky, Roman	9/20/1998
Lido Beach, NY	
Alegre, Santiago	9/20/1998
Hialeah, FL	
Anderson, Patricia White	9/20/1998
Decatur, GA	
Ayzenshtat, Zoya	9/20/1998
Merrick, NY	
Bullard, Carol	9/20/1998
Decatur, GA	
Bullard, Lester	9/20/1998
Decatur, GA	
Crowley, Rebecca R	9/20/1998
Batesville, MS	
Crown Ostomy, Inc	9/20/1998
Sunrise, FL	
Cummings, Robert	9/20/1998
Rumford, RI	
Disante, Anthony F	9/20/1998
Coraopolis, PA	
Donlin, Dennis L	9/20/1998
Clairton, PA	
Donski, Valeri	9/20/1998
Brooklyn, NY	
Doval, Ana Maria	9/20/1998
Subject city, state	Effective date
Miami, FL	
Fernandez, Jorge	9/20/1998
Miami, FL	
Gomez, Zoraida	9/20/1998
Hialeah, FL	
Hayes, McCoy, Jr	9/20/1998
Goldsboro, NC	
Hernandez, Gabriel	9/20/1998
Miami, FL	
Jones, Randy	9/20/1998
El Reno, OK	
Keenan, Michelle	9/20/1998
East Ryegate, VT	
Kobashigawa, Ted Hajime	9/20/1998
Sacramento, CA	
Lawrence, Irving Jack	9/20/1998
Conyers, GA	
Lawrence, Renee D	9/20/1998
Conyers, GA	
Lombardo, Edward P	9/20/1998
Milan, MI	
Lynn, Bambi	9/20/1998
Goffstown, NH	
Maxwell, Harold Marion	9/20/1998
Missoula, MT	
McKeller, Annie Alston	9/20/1998
Nashville, NC	
Medi Sheild, Inc	12/17/1997
Tamarac, FL	
Melvin-Hodge, Fayanna L	9/20/1998
Baltimore, MD	
Miner, Ernest Carlton	9/20/1998
Seattle, WA	
Morisset, Joan V	9/20/1998
Amherst, NY	
Morton, Sallie Jones	9/20/1998
Phenix, VA	
Peck, Kathryn Marie	9/20/1998
Fort Collins, CO	
Penate, Orlando	9/20/1998
Davie, FL	
Peterson, Sandra Marie	9/20/1998
Georgetown, CO	
Polonio, Oscar Jose	9/20/1998
Mesquite, TX	
Reyderman, Georgy	9/20/1998
Brooklyn, NY	
Robbins, Robert Paul	9/20/1998
Las Vegas, NV	
Sadigh, Ahmad	9/20/1998
Staten Island, NY	
Santiesteban, Wenceslao	9/20/1998
Hialeah, FL	
Slaughter, Juanita	9/20/1998
Portsmouth, VA	
Smith, Sharon Joy Harper	9/20/1998
LaGrange, NC	
Torres, Jaime Gotay	12/31/1997
Bayamo, PR	
Torres, Manuel Gotay	12/31/1997
Toa Baja, PR	
Tserlyuk, Yekaterina	9/20/1998
Staten Island, NY	
White, Deborah Williams	9/20/1998
Decatur, GA	
White, Horace Lee	9/20/1998
Decatur, GA	
Yanes, Mario	9/20/1998
Hialeah, FL	
Yanes, Zoraida	9/20/1998

Subject city, state	Effective date	Subject city, state	Effective date	Subject city, state	Effective date
Hialeah, FL		Middletown, NY		Haysville, KS	
FELONY CONVICTION FOR HEALTH CARE FRAUD		Brooks, Delroy Courtney	9/20/1998	Jefferies, Thomas	9/20/1998
		Orange, NJ		Catlin, IL	
		Brown, Wayne J	9/20/1998	Jones, Nancy Ellen Gooch	9/20/1998
		Los Angeles, CA		Westfield, IN	
Dillon, David Andrew	9/20/1998	Cameron, Anne	9/20/1998	Kirbans, Drew Joseph	9/20/1998
Phoenix, AZ		Merrimack, NH		Aurora, CO	
PATIENT ABUSE/NEGLECT CONVICTIONS		Cantara, Anthony M	9/20/1998	Kirkton, Mary	9/20/1998
		Allenstown, NH		Minonk, IL	
Adkins, Melicia Michelle	9/20/1998	Chu, Eric Chun	9/20/1998	Klutchko, Bruce Stewart	9/20/1998
Fort Worth, TX		East Meadow, NY		New York, NY	
Budhiraja, Sudesh Kumar	9/20/1998	Connell, Paul A P	9/20/1998	Ladra, William	9/20/1998
Framingham, MA		Tucker, GA		Jacksonville, FL	
Dargans, Nedra Lois	9/20/1998	Cook, Karen E	9/20/1998	Larkins, Robert	9/20/1998
Tulsa, OK		Worthington, MN		Rego Park, NY	
Fason, Carey Lynne	9/20/1998	Corliss, Steven	9/20/1998	Larson, Sandi Queck	9/20/1998
Scotland, AR		Bristol, CT		Springdale, PA	
Garner, Diana	9/20/1998	Cromer, Robert Wayne	9/20/1998	Ledingham, Jeanne Crase	9/20/1998
Canton, MS		Richmond, VA		Redlands, CA	
Grant, Darnell	9/20/1998	Donovan, John V	9/20/1998	Lemke, Larry J	9/20/1998
Moncks Corner, SC		Scarsdale, NY		Minneapolis, MN	
Johnson, Jacob, Jr	9/20/1998	Doty, John R	9/20/1998	Lennon, Susan Wagner	9/20/1998
Columbia, SC		St. Paul, MN		Rochester, NY	
Lievsay, James Harold	9/20/1998	Douglas, Howard Thomas, III ..	9/20/1998	Leritz, Arthur F	9/20/1998
Cedarville, AR		Hurst, TX		Spokane, WA	
Lynch, Nancy T	9/20/1998	Driver, Suzanne	9/20/1998	Mason, Kenneth P	9/20/1998
Morrisville, VT		San Francisco, CA		Hancock, NY	
Meade, Ruth K	9/20/1998	Ebert, Delores M	9/20/1998	McGivney, Marita	9/20/1998
Enid, OK		Hibbing, MN		Tinley Park, IL	
Moore, Maggie	9/20/1998	Edwardson, Donald	9/20/1998	McLaughlin, Mary C	9/20/1998
Jackson, MS		Meriden, CT		Two Harbors, MN	
Obeahon, Alexander Coleridge ..	9/20/1998	Ettress, Gail A	9/20/1998	McNeely, Denise Joanne	9/20/1998
Baltimore, MD		Springfield, IL		Las Vegas, NV	
Robertson, Pamela Jean	9/20/1998	Farley, Maureen C	9/20/1998	Merjianian, Marsha E	9/20/1998
Whiteville, TN		Janesville, MN		St Paul, MN	
Rogers, Joseph Lee	9/20/1998	Fisher, Billy W., Jr	9/20/1998	Merritt, Pamela Lorene	9/20/1998
Holdenville, OK		Charlottesville, VA		El Cajon, CA	
Simpson, Thelma A	9/20/1998	Floyd-Dade, Cassandra	9/20/1998	Miller, Elaine P	9/20/1998
New Orleans, LA		Meadville, MS		Cortland, NY	
Turley, Glenn P	9/20/1998	Franks, Cynthia Jo	9/20/1998	Mogilevsky, Semyon	9/20/1998
Barre, VT		San Dimas, CA		Chicago, IL	
Turner, Tanya Denise	9/20/1998	Freedland, Yosef	9/20/1998	Montgomery, Robert	9/20/1998
Marianna, AR		Los Angeles, CA		Leesburg, FL	
Wilcox, Benny	9/20/1998	Gain, John Joseph	9/20/1998	Morgala, Theresa	9/20/1998
De Queen, AR		Kenneth Square, PA		Des Plaines, IL	
CONVICTION FOR HEALTH CARE FRAUD		Ganti, Shashi	9/20/1998	Morgan, Alan J	9/20/1998
		Edison, NJ		Minneapolis, MN	
		Gilbert, Rosemarie C	9/20/1998	Murray, John Robert G	9/20/1998
		Moundsview, MN		El Cajon, CA	
Provost, Angie Vonciel	9/20/1998	Goldberg, Steven M	9/20/1998	Morton, Robert Oliver	9/20/1998
New Orleans, LA		Chatsworth, CA		Duncan, OK	
Saberi, Merdad	9/20/1998	Golub, Mark A	9/20/1998	Newgren, Gregory D	9/20/1998
Lowell, MA		Newport News, VA		St Paul, MN	
Walitalo, Darleen V	9/20/1998	Goodnuff, Jeffrey L	9/20/1998	Norvelle, Robert Earl	9/20/1998
Escanaba, MI		Edina, MN		Bridgewater, VA	
LICENSE REVOCATION/SUSPENSION/ SURRENDERED		Hagan, Marianne M	9/20/1998	Oehlecker, Donald G	9/20/1998
		Pennsauken, NJ		Wichita, KS	
		Harris, Diane L	9/20/1998	Otero, Kristin M	9/20/1998
		Washington, DC		St Paul, MN	
Abrahamson, Kip L	9/20/1998	Heaney, Howard F	9/20/1998	Patel, Mukund Kanu	9/20/1998
Brooklyn Center, MN		White Bear Lake, MN		Columbus, MS	
Alfano, Constance	9/20/1998	Hendrick, William	9/20/1998	Perkins, Lamont	9/20/1998
Ridgewood, NJ		Riverside, CA		Chicago, IL	
Anast, Deborah	9/20/1998	Herhusky, Vaughn	9/20/1998	Peterson, Roberta J	9/20/1998
Winthrop Harbor, IL		Virginia, MN		Moundsview, MN	
Andersen, Alfred N	9/20/1998	Hilgreen, Marianne J	9/20/1998	Piccola, Cindee L	9/20/1998
Pleasantville, NY		Westbury, NY		Chatham, NY	
Barker, Christopher B	9/20/1998	Hodgkiss, Nancy A	9/20/1998	Piscitello, Kathryn	9/20/1998
Christiansburg, VA		Lewiston, ME		Branford, CT	
Baumgartner, Frank M	9/20/1998	Howard, Theodora	9/20/1998	Pitt, Cheryl L	9/20/1998
Skippack, PA		Richmond, VA		Reston, VA	
Brickey, Harold Leon Jr	9/20/1998	Hurley, Linda	9/20/1998	Redondo-Malamud, Yasmin B ..	9/20/1998
Wise, VA		Oak Lawn, IL		Silver Spring, MD	
Brisotti, Lorraine C	9/20/1998	Jamieson, Austin L	9/20/1998	Rosen, Raymond	9/20/1998

Subject city, state	Effective date	Subject city, state	Effective date	Subject city, state	Effective date
Long Beach, CA		Miami, FL		Mohnton, PA	
Roubik, Karen M	9/20/1998	Norton Chiropractic Center	9/20/1998	Marcos, Emad R	9/20/1998
Noblesville, IN		Augusta, ME		Waldwick, NJ	
Rutland, William	9/20/1998	Save Medical Service Corp	9/20/1998	McCluskey, Larose M	9/20/1998
Mounds, IL		Miami, FL		Othello, WA	
Sarieva, Zoika	9/20/1998	South Pacific Medical Services	9/20/1998	McDonald, Allan D	9/20/1998
Los Angeles, CA		Miami, FL		Frostburg, MD	
Shinkoskey, Almon C	9/20/1998	Universal Medical, Inc	9/20/1998	McFarland, Lucinda Grace	9/20/1998
Seattle, WA		Miami, FL		Los Angeles, CA	
Silacci, Susan Woodard	9/20/1998	DEFAULT ON HEAL LOAN		Milligan, Michael R	9/20/1998
Salinas, CA				Kansas City, KS	
St Germain, Shirley Jean	9/20/1998	Adams, Stephen	9/20/1998	Morgan, Charles Timothy	9/20/1998
Minneapolis, MN		League City, TX		Perryville, MO	
Stankovic, Marjan Mladen	9/20/1998	Andrews, Jon Eric	9/20/1998	Preston, Michael R	9/20/1998
Monroe, WA		Tulsa, OK		Hagerhill, KY	
Sterling, Jessie R	9/20/1998	Bonin, Mark Todd	9/20/1998	Richard, John R	9/20/1998
Frankfort, NY		Spring, TX		Brooklyn, NY	
Taylor, Lisa Gay	9/20/1998	Brown, Wiley J	9/20/1998	Sales, Myrna	9/20/1998
Victorville, CA		Los Angeles, CA		Blooming Glen, PA	
Teich, Thomas	9/20/1998	Carrie, Thomas T	9/20/1998	Shaffer, Steven E	9/20/1998
Chicago, IL		Mount Vernon, NY		Garden Grove, CA	
Thompson, Sally Randolph	9/20/1998	Chapple, Steven Allen	9/20/1998	Shirzad, Mehdi	9/20/1998
Norfolk, VA		Ontario, CA		Gilroy, CA	
Tsai, Chinfong	9/20/1998	Chimento, Samuel Vincent	9/20/1998	Sills, Timothy J	9/20/1998
Zion, IL		Simi Valley, CA		Old Monroe, MO	
Van Gieson, George H	9/20/1998	Eftekhari, Abbas	9/20/1998	Smiley, Karen J	9/20/1998
Hilo, HI		Alta Loma, CA		Chattanooga, TN	
Vandeventer, Phyleta	9/20/1998	Enrico, Anthony J., Jr	9/20/1998	Smith, Benjamin F	9/20/1998
Lincoln, IL		Wayne, NJ		Albany, GA	
Vugrincic, Ched	9/20/1998	Flemming, Daniel B	9/20/1998	Sottile, Danielle N	9/20/1998
Saint Charles, IL		Colorado Spngs, CO		Tehachapi, CA	
Weaver, Thomas G	9/20/1998	Gallardo, Guillermo G	9/20/1998	Stock-Day, Lori Ruth	9/20/1998
St Cloud, MN		Jackson Hgts, NY		Belton, MO	
Williams, Noel Alton	9/20/1998	Germann, Thomas A	9/20/1998	Stockwell, Gayle A	9/20/1998
Walnut Creek, CA		Ilion NY		Lake Havasu City, AZ	
Winchester-Grant, Michelle	9/20/1998	Giles, Clarence R	9/20/1998	Stone (Needham), Heidi L	9/20/1998
Enfield, NH		El Paso, TX		Plano, TX	
Zwartkruis, Marjoleine J	9/20/1998	Glusman, Steven P	9/20/1998	Strickland, Christopher O	9/20/1998
Walnut Creek, CA		Beaverton, OR		Weatherford, TX	
FEDERAL/STATE EXCLUSION/ SUSPENSION		Gold, Robert S	9/20/1998	Sulkowski, Edmund A	9/20/1998
Metro Health Care Services Inc	9/20/1998	Atlanta, GA		Venetia, PA	
New York, NY		Goldsticker, Ralph D	9/20/1998	Taylor, Thomas R	9/20/1998
FRAUD/KICKBACKS		Norfolk, VA		Kansas City, MO	
Marcus, Steven E	6/08/1998	Gomes, John Laurence	9/20/1998	Taylor, Rodger E	9/20/1998
King of Prussia, PA		Garden City, NY		E Wenatchee, WA	
Victory Medical Supplies, Inc ...	12/17/1997	Harding, Patricia A	9/20/1998	Tomlinson, Alison K	9/20/1998
Goose Creek, SC		Delaware, OH		N Miami Beach, FL	
Victory Medical, Inc	12/17/1997	Hazelwood, Harry, III	9/20/1998	Toporovsky, Nathan A	9/20/1998
Columbia, IL		Lauderhill, FL		White Plains, NY	
OWNED/CONTROLLED BY CONVICTED/ EXCLUDED		Henry, Guy	9/20/1998	Tran, Nga V	9/20/1998
Apollo Medical Equipment, Inc	9/20/1998	Plainsboro, NJ		Santa Ana, CA	
Miami, FL		Henry, Judith L	9/20/1998	Tran, Ngoc H	9/20/1998
Boufford Chiropractic Offices	9/20/1998	Spring Valley, CA		Simi Valley, CA	
Salem, MA		Hoot, Steven P	9/20/1998	Trumbo, Traig T	9/20/1998
Capital Medical Supplies, Corp	9/20/1998	Santa Cruz, CA		Sunland, CA	
Miami, FL		Hove, Richard Cameron	9/20/1998	Uske, Eugene J	9/20/1998
Correa Supply, Corporation	9/20/1998	Tucson, AZ		Staten Island, NY	
Miami, FL		Hungerford, Regina Kathryn	9/20/1998	Velazquez, Ezekiel A	9/20/1998
Darlene Medical Corp	9/20/1998	Hayward, CA		Orlando, FL	
Miami, FL		Jackson, Garland C., Jr	9/20/1998	Weisheit (Dasylya), Lyn D	9/20/1998
Gieger Transfer Service, Inc	9/20/1998	Woodbridge, CT		Marietta, GA	
Montgomery, AL		Johansen, Kelly S	9/20/1998	Wright, Letitia S	9/20/1998
Hickory Plaza Pharmacy	9/20/1998	Devils Lake, ND		Rancho Cucamonga, CA	
Columbia, MD		Jones, Roger A	9/20/1998	SETTLEMENT AGREEMENT	
Imperial Medical & Rental, Inc	9/20/1998	Pine Bluff, AR		Inejikian, Jirair A	1/30/1998
		Knight, Ronald R	9/20/1998	Shelby, NC	
		Portland, OR		Rubio, Charles	4/21/1998
		Kuklinski, Edward A	9/20/1998	Auburn, AL	
		New York, NY			
		Ledferd, Gregory A	9/20/1998		
		Portland, OR			
		Malak, Timothy M	9/20/1998		

Dated: September 2, 1998.

Joanne Lanahan,

*Director, Health Care Administrative
Sanctions, Office of Inspector General.*

[FR Doc. 98-24878 Filed 9-16-98; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collections Submitted to the Office of Management and Budget for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comments.

SUMMARY: The collection of information described below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of the specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address provided below.

DATES: Consideration will be given to all comments received on or before November 16, 1998. OMB has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by the above referenced date.

ADDRESSES: Comments and suggestions on the requirement should be sent to Rebecca Mullin, Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 860-ARLSQ, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at 703/358-2287, or electronically to rmullin@fws.gov.

SUPPLEMENTARY INFORMATION:

The OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). On Monday, August 24, 1998, the U.S. Fish and Wildlife Service (Service) was given emergency approval

by OMB for collection of information in order to continue the grants programs conducted under the North American Wetlands Conservation Act (Pub. L. 101-233, as amended; December 13, 1989). The assigned OMB information collection control number is 1018-0100, and temporary approval expires in February 1999. The Service is requesting a three year term of approval for this information collection activity. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments are invited on: (1) 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; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents.

Title: Information Collection In Support of Grant Programs Authorized by the North American Wetlands Conservation Act of 1989 (NAWCA).

Approval Number: 1018-0100.

Service Form Number(s): N/A.

Description and Use: The North American Waterfowl Management Plan (NAWMP), first signed in 1986, is a tripartite agreement among Canada, Mexico and the United States to enhance, restore and otherwise protect continental wetlands to benefit waterfowl and other wetland associated wildlife through partnerships between and among the private and public sectors. Because the 1986 NAWMP did not carry with it a mechanism to provide for broadly-based and sustained financial support for wetland conservation activities, Congress passed and the President signed into law the NAWCA to fill that funding need. The purpose of NAWCA, as amended, is to promote long-term conservation of North American wetland ecosystems and the waterfowl and other migratory birds, fish and wildlife that depend upon such habitat through partnerships. Principal conservation actions supported by NAWCA are acquisition, enhancement and restoration of wetlands and wetlands-associated habitat.

As well as providing for a continuing and stable funding base, NAWCA establishes an administrative body, made up of a State representative from each of the four Flyways, three representatives from wetlands

conservation organizations, the Secretary of the Board of the National Fish and Wildlife Foundation, and the Director of the Service. This administrative body is chartered, under the Federal Advisory Committee Act, by the U.S. Department of the Interior as the North American Wetlands Conservation Council (Council). As such, the purpose of the Council is to recommend wetlands conservation project proposals to the Migratory Bird Conservation Commission (MBCC) for funding.

Subsection (c) of Section 5 (Council Procedures) Provides that the " * * * Council shall establish practices and procedures for the carrying out of its functions under subsections (a) and (b) of this section * * *," which are consideration of projects and recommendations to the MBCC, respectively. The means by which the Council decides which project proposals are important to recommend to the MBCC is through grants programs that are coordinated through the Council Coordinator's office (NAWWO) within the Service.

Competing for grant funds involves applications from partnerships that describe in substantial detail project locations and other characteristics, to meet the standards established by the Council and the requirements of NAWCA. The Council Coordinator's office publishes and distributes Standard and Small Grants instructional booklets that assist the applicants in formulating project proposals for Council consideration. The instructional booklets and other instruments, e.g., **Federal Register** notices on request for proposals, are the basis for this information collection request for OMB clearance. Information collected under this program is used to respond to such needs as: audits, program planning and management, program evaluation, Government Performance and Results Act reporting, Standard Form 424 (Application For Federal Assistance), grant agreements, budget reports and justifications, public and private requests for information, data provided to other programs for databases on similar programs, Congressional inquiries and reports required by NAWCA, etc.

In summary, information collection under these programs is required to obtain a benefit, i.e., a cash reimbursable grant that is given competitively to some applicants based on eligibility and relative scale of resource values involved in the projects. The information collection is subject to the Paperwork Reduction Act requirements for such activity, which

includes soliciting comments from the general public regarding the nature and burden imposed by the collection.

Frequency of Collection: Occasional. The Small Grants program has one project proposal submissions window per year and the Standard Grants program has two per year.

Description of Respondents: Households and/or individuals; business and/or other for-profit; not-for-profit institutions; farms; Federal Government; and State, local and/or Tribal governments.

Estimated Completion Time: The reporting burden, or time involved in writing project proposals, is estimated to be 80 hours for a small Grants submission and 400 hours for a Standard Grants submission.

Number of Respondents: It is estimated that 150 proposals will be submitted each year, 70 for the Small Grants program and 80 for the Standard Grants program.

Annual Burden Hours: 37,600.

Dated: September 9, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98-24859 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: James S. Carter, Houston, TX, PRT-002100

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damalisca pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: St. Louis Zoological Park, St. Louis, MO, PRT-001950

The applicant amends its request for a permit to export captive born Black and White Ruffed Lemurs (*Varecia variegata variegata*) to Madagascar for the purpose of enhancement of the survival of the species through re-introduction into the wild. The amendment specifies the addition of two males.

Applicant: Omaha's Henry Doorly Zoo, Omaha, NE, PRT-843167

The applicant requests a permit to export fixed embryo samples from two Siberian Tigers (*Panthera tigris altaica*) for the purpose of enhancement of the survival of the species through scientific research for the captive-breeding program of the AZA Tiger Species Survival Plan.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following applications for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: George Gard, Boynton Beach, FL, PRT-002693

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Foxe Basin polar bear population, Northwest Territories, Canada for personal use taken prior to April 30, 1994.

Written data or comments, requests for copies of any of these complete applications, or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358-2104 or fax 703/358-2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application 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 to the above address within 30 days of the date of publication of this notice.

Dated: September 14, 1998.

Mary Ellen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98-24908 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Establish Management Bodies for the Development, Implementation, and Management of a Migratory Bird Subsistence Program in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) intends to establish management bodies for the development, implementation, and management of a migratory bird subsistence program in Alaska. This action is the result of the 1997 amendments to the migratory bird treaties with Canada and Mexico approved by the U.S. Senate on October 23, 1997. The amendment to the treaty with Canada requires that indigenous inhabitants of the State of Alaska will have a meaningful role in migratory bird conservation by participating on relevant management bodies. In partnership with the Alaska Department of Fish and Game and the Native Migratory Bird Working Group, the Service will prepare an options document for public review and comment leading to the establishment of the management bodies.

DATES: See SUPPLEMENTARY INFORMATION section for meeting dates.

ADDRESSES: Submit comments regarding the preparation of the options document, to Mimi Hogan, Migratory Bird Subsistence Coordinator, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503; fax 907/786-3641.

FOR FURTHER INFORMATION CONTACT: Mimi Hogan at 907/786-3673.

SUPPLEMENTARY INFORMATION: In 1916 the U.S. Senate ratified the Convention Between the United States and Great Britain (on behalf of Canada) For the Protection Of Migratory Birds. A similar treaty was ratified with Mexico in 1936. The treaties specified a close season on the taking of migratory game birds between March 10 and September 1 of each year. The treaties did not take into account traditional harvests of migratory birds by northern indigenous people during the spring and summer months. This harvest, which had occurred for centuries, was a necessary part of the subsistence lifestyle of the northern people, and continued after the ratification of the treaties. After many years of attempts to change the treaties, amendments to both treaties were approved in 1997, allowing certain

exceptions for the subsistence harvest of migratory birds by indigenous inhabitants of identified subsistence zones in Alaska.

The intent of the amendments is to enable effective actions to be taken to improve migratory bird conservation, and to cause no significant increases in the take of species of migratory birds relative to their continental population sizes. Paragraph 4(b)(ii) of Article II states:

Indigenous inhabitants of the State of Alaska shall be afforded an effective and meaningful role in the conservation of

migratory birds including the development and implementation of regulations affecting the non-wasteful taking of migratory birds and the collection of their eggs, by participating on relevant management bodies.

This notice initiates action to establish management bodies required by the treaty amendments. The options document being prepared will identify, among other things, the number of management bodies needed for effective and efficient management, how the management bodies will be organized, and their roles and responsibilities. The options document will be prepared for

review and public comment by the Native Migratory Bird Working Group, the Alaska Department of Fish and Game, and the U.S. Fish and Wildlife Service. Availability of a draft document for review and a list of public meetings to gather public comment will be announced in the **Federal Register**.

Meetings

In order to receive from the subsistence users ideas regarding the preparation of the decision document, public forums will be conducted in the following Alaska locations during 1998:

Date	City	Location	Time
Sept 22	Nome	Nome Mimi Convention Center	7:00 p.m.
Sept 23	Kotzebue	Alaska Technical Center, Room 170	7:00 p.m.
Sept 29	Fort Yukon	Native Village Building	7:00 p.m.
Oct 5	Allakaket	Allakaket Community Hall	7:00 p.m.
Oct 21	Naknek	Bristol Bay Borough Assembly Chambers	7:00 p.m.
Nov 4	Dillingham	City Council Chambers	7:00 p.m.
Nov 18	Barrow	North Slope Borough Assembly Room	7:00 p.m.

A forum will also be scheduled for the Yukon-Kuskokwim Delta area. Date, time, and location will be announced in the local media when the schedule is final.

Dated: September 10, 1998.

Robyn Thorson,

Deputy Regional Director, Anchorage, Alaska.

[FR Doc. 98-24922 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Approval

The following applicant has applied for approval to conduct certain activities with birds that are protected in accordance with the Wild Bird Conservation Act of 1992. This notice is provided pursuant to Section 112(4) of the Wild Bird Conservation Act of 1992, 50 CFR 15.26(c).

Applicant: Rick Jordan, Dripping Springs, Texas, on behalf of the Cooperative Breeding Program for the Crimson-bellied Conure (CB 009). The applicant wishes to amend approved cooperative breeding program CB 009, to include the following species of conure: White-eared conure (*Pyrrhura leucotis leucotis*, *Pyrrhura leucotis emma*); Fiery Shouldered conure (*Pyrrhura egregia*); Rose-crowned conure (*Pyrrhura rhodocephala*); Pearly conure (*Pyrrhura perlata lepida*, *Pyrrhura perlata coerulescens*); Blue-throated conure (*Pyrrhura cruentata*);

Painted conure (*Pyrrhura picta picta*, *Pyrrhura picta roseifrons*); Green-cheeked conure (*Blue mutation*) (*Pyrrhura molinae*). The American Federation of Aviculture maintains responsibility for the oversight of the program.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

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 to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358-2095); FAX: (703/358-2298).

Dated: September 11, 1998.

Dr. Rosemarie Gnam,

Chief, Branch of Operations, Office of Management Authority.

[FR Doc. 98-24912 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management; Alaska

[AK-962-1410-00-P]

Notice for Publication; Alaska Native Claims Section

AA-9256, AA-9259, AA-9266, AA-9267, AA-9268, AA-9272, AA-9274, AA-9275, AA-9282, AA-9283, AA-9289, AA-9290, AA-9291, AA-9297, AA-9298, AA-9302, AA-9306, AA-9309, AA-9313, AA-9315, AA-9316, AA-9321, AA-9327, AA-10314, AA-10423, AA-11346, and AA-11348

Alaska Native Claims Selection

In accordance with Departmental regulations 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, (ANCSA), 43 U.S.C. 1601, 1613(h)(1), will be issued to the Calista Corporation for 27 sites aggregating approximately 859 acres. The lands involved are in the vicinity of Nunivak Island, Alaska.

Seward Meridian, Alaska

T. 1 S., R. 104 W.,
T. 3 S., R. 97 W.,
T. 4 S., R. 101 W.,
T. 1 N., R. 94 W.,
T. 1 N., R. 104 W.,
T. 2 N., R. 101 W.,
T. 1 S., R. 105 W.,
T. 3 S., R. 101 W.,
T. 5 S., R. 98 W.,
T. 1 N., R. 101 W.,
T. 1 N., R. 105 W.,
T. 2 N., R. 102 W.,
T. 2 S., R. 104 W.,
T. 4 S., R. 98 W.,

T. 5 S., R. 99 W.,
T. 1 N., R. 102 W.,
T. 2 N., R. 94 W.,

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News*. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, 113, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decisions, shall have until October 19, 1998. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in 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.

Jerri Sansone,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 98-24899 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-910-0777-51]

Iditarod Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior

ACTION: Notice of Iditarod Advisory Council meeting.

SUMMARY: The Iditarod Advisory Council will conduct an open meeting Tuesday, October 13, 1998, from 9 a.m. until 4 p.m. The purpose of the meeting is to discuss the council's transition to a non-profit organization to assist in the management of the Iditarod National Historic Trail. The meeting will be held at the Campbell Creek Science Center, 6881 Abbott Loop Road, Anchorage, AK.

Public comments pertaining to management of the Iditarod National Historic Trail will be taken from 1-2 p.m. Written comments may be submitted at the meeting or mailed to the address below prior to the meeting. **ADDRESSES:** Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, Alaska 99513-7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271-5555.

Dated: September 10, 1998.

Nick Douglas,

Field Manager.

[FR Doc. 98-24900 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-020-1310-00]

Notice of Intent for Planning Analyses

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent for Planning Analyses.

SUMMARY: The Jackson Field Office, Eastern States, will prepare a planning analysis (PA) to consider a waiver request of a no occupancy (surface or sub-surface) stipulation attached to an oil & gas lease issued on August 1, 1998. The PA will be prepared in concert with an environmental assessment (EA).

This notice is issued pursuant to Title 40 Code of Federal Regulations (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in 43 CFR Part 1600.

The public is invited to participate in this planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and criteria will be accepted through October 16, 1998.

ADDRESSES: Send comments to Bureau of Land Management, Jackson Field Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206.

FOR FURTHER INFORMATION CONTACT: Quazi T. Islam, Physical Scientist, Jackson District, (601) 977-5400.

SUPPLEMENTARY INFORMATION: The BLM has responsibility to consider a waiver request for no occupancy stipulation for an already leased mineral estate for oil and gas exploration and development. An interdisciplinary team will be used in the preparation of the PA/EA. Preliminary issues, subject to change as a result of public input, are (1) potential impacts of oil and gas exploration and development on the surface resources and (2) consideration of restrictions on lease rights to protect surface resources.

Since two leased tracts are in close proximity, one PA/EA will be prepared to cover both the tracts. Tract locations, along with acreages, are listed below.

Alabama, Tuscaloosa County, Huntsville Meridian,

T 18 S, R 8 W, Section 3, 40 acres more or less;
T 18 S, R 8 W, Section 11, 40 acres more or less.

Due to the limited scope of this PA/EA process, public meetings are not scheduled.

Bruce E. Dawson,

Field Manager, Jackson.

[FR Doc. 98-24877 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-GJ-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-932-1430-01; AA-11716]

Public Land Order No. 7362; Revocation of Geological Survey Order Dated June 29, 1950; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Geological Survey order in its entirety as it affects approximately 1,760 acres of public and National Forest System land withdrawn for Power Site Classification No. 409. The area affected by this order includes public land, National Forest System land, and land that has been conveyed out of Federal ownership, and is no longer needed for the purpose for which it was withdrawn. The public land lies within the boundary of the Kenai National Wildlife Refuge and Kenai Wilderness, and the National Forest System land is within the boundary of the Chugach National Forest.

EFFECTIVE DATE: September 17, 1998.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513-7599, 907-271-5049.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Geological Survey Order dated June 29, 1950, which established Power Site Classification No. 409, is hereby revoked in its entirety:

Seward Meridian

Land located within secs. 28 through 32 of T. 5 N., R. 3 W., and secs. 25 through 28, and secs. 33 through 36 of T. 5 N., R. 4 W., more particularly described as:

All lands within 1/4 mile of Kenai River from the mouth of Russian River upstream to the present bridge across Kenai River at

Coopers Landing. This bridge is located at latitude 60°29' N., longitude 149°50' W., approximately.

The area described contains approximately 1,760 acres.

2. The public land within the area described above will remain withdrawn as part of the Kenai National Wildlife Refuge, pursuant to Section 303(4) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1994), and the Kenai Wilderness, pursuant to Section 702(7) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 1132 (1994), and will be subject to the terms and conditions of any other withdrawal or segregation of record. The National Forest System land within the above-described area will continue to be subject to the terms and conditions of the Chugach National Forest reservation and any other withdrawal or segregation of record.

Dated: August 28, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98-24880 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-JA-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-933-1430-00; IDI-15613 et al.]

Public Land Order No. 7363; Revocation of 4 Executive Orders, 3 Secretarial Orders, and 1 Geological Survey Order; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes 4 Executive orders, 3 Secretarial orders, and 1 Geological Survey order insofar as they affect 8,597.76 acres of lands withdrawn for certain Bureau of Land Management Powersite Classifications and Reserves in the State of Idaho. Of the lands being revoked, 3,634.85 acres will be opened to surface entry. The remaining 4,962.91 acres will remain closed to surface entry and mining due to overlapping withdrawals or the lands having been conveyed out of Federal ownership. All of the lands containing Federally owned minerals have been and will remain open to mineral leasing. The lands still in Federal ownership and not overlapped by other withdrawals, have been and will remain open to mining.

EFFECTIVE DATE: October 19, 1998.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 1387 S. Vinnell Way, Boise,

Idaho 83709, 208-373-3864. A copy of the legal description of the lands involved is available from this location.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The following 4 Executive orders, 3 Secretarial orders, and 1 Geological Survey order are hereby revoked insofar as they affect the lands described in the orders referenced below:

(a) Executive Order dated May 19, 1913, Powersite Reserve No. 358 (IDI-15613);

(b) Executive Order dated May 6, 1919, Powersite Reserve No. 725 (IDI-15619);

(c) Secretarial Order dated December 14, 1926, Powersite Classification No. 160 (IDI-15688);

(d) Secretarial Order dated May 12, 1941, Powersite Classification No. 325 (IDI-15695);

(e) Secretarial Order dated August 2, 1927, Powersite Classification No. 186 (IDI-15711);

(f) Geological Survey Order dated April 18, 1957, Powersite Classification No. 440 (IDI-15797);

(g) Executive Order dated November 5, 1916, Powersite Reserve No. 552 (IDI-21014);

(h) Executive Order dated September 22, 1917, Powersite Reserve No. 638 (IDI-21015);

The areas within the above Secretarial orders, Executive orders, and Geological Survey order aggregate 8,597.76 acres in Elmore, Boise, Fremont, Bonneville, Kootenai, Nez Perce, Custer, and Lemhi Counties.

2. At 9 a.m. on October 19, 1998, the lands referenced in paragraph 1, except those lands overlapped by other withdrawals or conveyed out of Federal ownership, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on October 19, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: August 28, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98-24938 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-958-1430-01; GP8-0125; OR-19001]

Public Land Order No. 7364; Modification and Partial Revocation of Executive Order No. 5907, Dated August 18, 1932; OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order modifies an Executive order to establish a 20-year term as to 40 acres of public land withdrawn for Bureau of Land Management Public Water Reserve No. 146. The land will remain closed to surface entry and non-metalliferous mining. This order also partially revokes the same Executive order insofar as it affects the remaining 438.87 acres. The land does not meet the criteria for a public water reserve. This action will open the land to surface entry and nonmetalliferous mining, unless included in other segregations of record. All of the land has been and will remain open to metalliferous mining and mineral leasing unless included in other segregations of record.

EFFECTIVE DATE: October 19, 1998.

FOR FURTHER INFORMATION CONTACT:

Charles R. Roy, BLM Oregon/ Washington State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-952-6189.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Executive Order No. 5907 dated August 18, 1932, which established Public Water Reserve No. 146, is hereby modified to expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended insofar as it affects the following described land:

Willamette Meridian

T. 38 S., R. 13 E.,
Sec. 35, SW¹/₄ SW¹/₄.

The area described contains 40 acres in Klamath County.

The land described above continues to be withdrawn from settlement, sale, location, or entry under the public land laws and the nonmetalliferous mining laws, to protect Public Water Reserve No. 146. The land has been and will

remain open to leasing under the mineral leasing laws, but will remain closed to metalliferous mining due to another overlapping withdrawal.

2. Executive Order No. 5907 dated August 18, 1932, which established Public Water Reserve No. 146, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

- T. 38 S., R. 13 E.,
Sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
- T. 39 S., R. 13 E.,
Sec. 2, lots 3 and 4.
- T. 41 S., R. 23 E.,
Sec. 12, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 13, E $\frac{1}{2}$ W $\frac{1}{2}$.
- T. 38 S., R. 26 E.,
Sec. 10, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 11, S $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 438.87 acres in Klamath and Lake Counties.

3. The following described land will remain closed to surface entry and mining due to an overlapping withdrawal for the Klamath River Reclamation Project:

Willamette Meridian

- T. 38 S., R. 13 E.,
Sec. 35, SW $\frac{1}{4}$ SW $\frac{1}{4}$.
- T. 39 S., R. 13 E.,
Sec. 2, lots 3 and 4.

The area described contains 118.87 acres in Klamath County.

4. The following described land will remain closed to mineral leasing and permits due to an overlapping withdrawal for a Bureau of Land Management Wilderness Study Area:

Willamette Meridian

- T. 38 S., R. 26 E.,
Sec. 11, S $\frac{1}{2}$ SW $\frac{1}{4}$.

The area described contains 80 acres in Lake County.

5. At 8:30 a.m. on October 19, 1998, the land described in paragraph 2, except as provided in paragraphs 3 and 4, will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on October 19, 1998, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

6. At 8:30 a.m. on October 19, 1998, the land described in paragraph 2, except as provided in paragraphs 3 and 4, will be opened to the location and entry under the United States mining laws for nonmetalliferous minerals, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the

requirements of applicable law. Appropriation of lands described in this order under the general mining laws for nonmetalliferous minerals prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 28, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98-24937 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-934-08-1610-00]

Proposed Resource Management Plan/ Final Environmental Impact Statement; Dixie Resource Area, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 102 of the National Environmental Policy Act of 1969, Section 202 of the Federal Land Policy and Management Act of 1976, and 43 CFR Part 1610, the Proposed Resource Management Plan (RMP)/Final Environmental Impact Statement (EIS), hereafter referred to as the "Proposed Plan", has been prepared for the Dixie Resource Area, Cedar City District, Utah, and is available for a thirty day public review and protest period. The Proposed Plan provides decisions for management of approximately 629,000 acres of public lands and 675,750 acres of Federal mineral estate in Washington County, in southwestern Utah. The Proposed Plan is presented in a condensed final environmental impact statement format that (a) draws upon elements of each of the four alternatives analyzed in the Draft RMP/EIS to formulate the new Proposed Plan, (b) reflects consideration given to public comments on, and corrections to, the Draft RMP/EIS, as well as rewording for clarification, and (c) incorporates an expanded environmental impact analysis section.

FOR FURTHER INFORMATION CONTACT:

Lauren Mermejo, RMP Planning Coordinator, Bureau of Land Management, Dixie Resource Area Office, 345 E. Riverside Drive, St. George, Utah 84790, telephone 435-688-3216.

ADDRESSES: Protests must be addressed to the Director (WO-210), Bureau of Land Management, Attn: Brenda Williams, Resource Planning Team, 1849 C Street, NW., Washington, DC 20240, within 30 days after the date of publication of this notice for the Proposed Plan.

DATES: The Proposed Plan may be protested. The protest period will commence with the date of publication of a Notice of Filing by the Environmental Protection Agency, which is expected to be on September 18, 1998. Protests must be submitted on or before October 17, 1998.

SUPPLEMENTARY INFORMATION: The Proposed Plan presents decisions for managing public lands for the following resource categories or uses: Lands (including acquisition, transfer, easement acquisition, and rights-of-way), Energy and Minerals (including fluid minerals, locatable minerals, and mineral materials), Transportation, Air Quality, Soil and Water, Riparian, Vegetation (including composition and special status species), Fish and Wildlife Habitat (including special status species), Livestock Grazing, Forestry, Recreation, Off-Highway Vehicles, Visual, Wilderness, Cultural and Paleontological, Hazardous Wastes, Fire, and Special Emphasis Areas (including Wild and Scenic Rivers, Areas of Critical Environmental Concern [ACECs], Native American Coordination, and Zion National Park Coordination).

The Proposed Plan brings forth ten ACECs for designation that BLM has determined to require special management to prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources, or other natural systems. In addition, there are portions of five river segments that BLM has concluded it would recommend as suitable for Congressional designation under the Wild and Scenic Rivers Act. This Proposed Plan promotes opportunities for community based partnerships and collaborative processes for successful and effective management of public lands into the future.

The Dixie Resource Area Draft RMP/EIS was released for public review and comment in October of 1995 and was followed by a seven month comment period. The Draft RMP/EIS analyzed

four alternatives to managing public lands in Washington County, Utah. The Dixie Resource Area Office received over 800 comment letters on the Draft RMP/EIS from local, state and federal governments, interest groups, and the public at large. Major concerns brought forth from proposed decisions of the Draft RMP/EIS included wild and scenic river issues, off-highway vehicle management designations, visual resource protection zones, rights-of-way restrictions, threatened and endangered species protection, the Virgin River and its associated resources, as well as, potential reservoir development, among others. Since the release of the Draft RMP/EIS, public meetings, workshops, mailings, and briefings have been conducted to solicit comments, new information, and ideas for the Proposed Plan.

The Proposed Plan responds to public comments received on the Draft RMP/EIS. The Proposed Plan also corrects errors in the Draft RMP/EIS identified through the public comment process and internal BLM review. The Proposed Plan and associated analysis presents a refined and modified version of the Preferred Alternative and the accompanying impact analysis contained in the Draft RMP/EIS. The Proposed Plan can be used in conjunction with the Draft RMP/EIS to facilitate review of the initial four alternatives. The description of the affected environment and detailed descriptions of the alternatives contained in the Draft RMP/EIS, as well as some of the appendices, are referenced but not reproduced in the Proposed Plan.

Copies of the Proposed Plan are available from the Dixie Resource Area Office, 345 E. Riverside Drive, St. George, Utah, 84790, 435-688-3216. Public reading copies will be available for review at all government-document depository libraries, and at the following BLM locations: Office of Public Affairs, Main Interior Building, 18th and C Streets N.W., Washington, DC 20240; Information Access Center (4th Floor), Utah BLM State Office, 324 S. State Street, Salt Lake City, Utah, 84111; Cedar City District Office, 176 East DL Sargent Drive, Cedar City, Utah 84720; and Dixie Resource Area Office, 345 East Riverside Drive, St. George, Utah 84790. Background information and reference materials used in developing the Proposed Plan are available for review in St. George at the Dixie Resource Area Office.

Written protests on the Proposed Plan will be accepted for 30 days following the date the Environmental Protection Agency published the Notice of Filing of

this document in the **Federal Register**. It is anticipated that the filing date will be on September 18, 1998, thus ending the public review/protest period on October 17, 1998, and the Governor's 60-day consistency review on November 16, 1998. Any part of this Proposed Plan may be protested only by parties who participated in the planning process. Protests must pertain to issues that were identified in the Draft RMP/EIS or through the public comment process. Protests must be addressed to the BLM Director at the address listed under **ADDRESSES**. The protest must be specific and contain the following information: —The name, mailing address, telephone number and interest of the person filing the protest; —A statement of the issue(s) being protested; —A statement of the part(s) of the proposed amendment being protested, and a citing of pages, paragraphs, maps, etc., of the Proposed Plan, where practical.; —A copy of all documents addressing the issue(s) that were submitted by the protestor during the planning process; and —A concise statement explaining why the BLM State Director's proposed decision is believed to be in error.

At the end of the 30-day protest period, the Proposed Plan, excluding any portion under protest will become final.

Approval will be withheld on any portion of the plan under protest until final action has been completed on such protest.

Dated: September 9, 1998.

G. William Lamb,
State Director, Utah.

[FR Doc. 98-24898 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-DQ-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-960-1420-00] ES-50148, Group 32, Illinois

Notice of Filing of Plats of Survey; Illinois

The plats of the dependent resurvey of a portion of the east and north boundaries, portions of the subdivisional lines and the survey of the subdivision of section 4, and the Lock and Dam No. 26 acquisition boundary, Township 6 North, Range 13 West, Third Principal Meridian, Illinois, and the dependent resurvey of portions of the subdivisional lines and the survey of the Lock and Dam No. 26 Acquisition

Boundary, Township 7 North, Range 13 West, Third Principal Meridian, Illinois, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on October 19, 1998.

The survey was requested by the U.S. Army Corps of Engineers.

All inquiries or protests concerning the technical aspects of either survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., October 19, 1998.

Copies of the plats will be made available upon request and prepayment of the reproduction fee of \$2.75 per copy.

Dated: September 8, 1998.

Stephen G. Kopach,
Chief Cadastral Surveyor.

[FR Doc. 98-24940 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-GJ-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-957-00-1420-00: G8-0309]

Filing of Plats of Survey: Oregon/ Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 21 S., R. 3 W., accepted July 31, 1998
T. 26 S., R. 3 W., accepted September 2, 1998
T. 25 S., R. 4 W., accepted September 1, 1998
T. 37 S., R. 4 W., accepted July 28, 1998
T. 33 S., R. 5 W., accepted September 1, 1998
T. 29 S., R. 8 W., accepted September 2, 1998
T. 22 S., R. 9 W., accepted July 31, 1998
T. 31 S., R. 14 W., accepted July 14, 1998
T. 29 S., R. 15 W., accepted July 24, 1998
T. 33 S., R. 15 W., accepted July 24, 1998

If the protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files on the Oregon State Office, Bureau of Land Management, 1515 S.W., 5th Avenue, Portland, Oregon 97201, and

will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision. **FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, (1515 S.W., 5th Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: September 9, 1998.

Sherrie L. Reid,

Acting Chief, Branch of Realty and Records Services.

[FR Doc. 98-24939 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intention To Extend Public Review Period for National Park Service Reference Manual #41: Wilderness Preservation and Management

AGENCY: National Park Service, Interior.
ACTION: Public notice.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions to a three-level system consisting of: (1) NPS Management Policies; (2) Director's Orders; and (3) Reference Manuals/ Handbooks and other helpful information. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, this information is being made available for public comments. While the original 30-day public review period for this document ended on August 17, 1998, an additional 30-day public review period will be implemented and end on September 30, 1998.

DATES: Written comments will be accepted until September 30, 1998.

ADDRESSES: The draft Reference Manual #41 is available on the Internet at: <http://www.nps.gov>. The specific link can subsequently be reached by opening: "Infozone," "Reference Desk," "Director's Orders." Reference Manual

#41 is included under sub-title "Draft Guidance Documents." Requests for copies and written comments should be sent to Jim Walters, National Park Service Deputy Wilderness Program Coordinator, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87504-0728.

FOR FURTHER INFORMATION CONTACT: Jim Walters at 505 988-6022 (fax) 505 988-6123, or Wes Henry at 202 208-5211.

SUPPLEMENTARY INFORMATION:

Table of Contents: Reference Manual #41: Wilderness Preservation and Management

I. Background and Purpose

The purpose of Reference Manual #41: Wilderness Preservation and Management is to provide national park managers with the information they need to understand the laws and policies affecting the NPS wilderness resource and guidance for the application of the edicts into the day-to-day and long-term preservation of these resources. The Reference Manual contains: (1) An update of the NPS Management Policies pertaining to wilderness; (2) the Director's Orders intended to assist managers in the application of these policies, and (3) specific detailed references and background information affecting the Service's wilderness resource.

II. Legislative Guidance Applicable to NPS Wilderness Preservation

This information is intended to provide park managers and the public with an understanding of the primary laws regulating the wilderness resource. This discussion includes: the relationship between the Wilderness Act and the NPS Organic Act, the clarification of Section 4(a)(3) of the Wilderness Act which is often misinterpreted by park managers, the implication of the Redwood Act Amendments to the Service's wilderness program, and an explanation of the Eastern Wilderness Act as it applies to the National Park Service.

III. Revised Management Policies Guiding Wilderness Preservation and Management (Level One)

The "Level One" wilderness policy statements will revise and update previous policies included in Chapter 6 of the 1988 Wilderness Policies handbook. These revised policies include general statements addressing: wilderness characteristics and values, the process for reviewing potential wilderness additions, general wilderness policies, consistency of the Service's wilderness program, zoning,

accountability and responsibility, management plans, the minimum requirement process, monitoring strategies, signing, research protocols, NPS administrative facilities, fire management, cultural resources, environmental compliance standards, general public use, commercial services, special events, grazing and livestock driveways, rights-of-way and mineral development and public education standards.

IV. Director's Order #41 (Level Two)

The "Level Two" Director's Order are intended as more detailed guidance and standards for managers to use in the application of the revised policy statements. Director's Order #41 will be issued by the NPS Associate Director-Operations and Parks as required standards at which the respective programs and functions must be managed within NPS wilderness. These program, identified as "Critical Issues" include: wilderness management plan requirements, procedures for applying the "minimum requirement" concept, interagency coordination, cultural resource management, climbing protocols, fire management, interpretation and education, mineral development, research and other scientific uses, wilderness use by persons with disabilities, special events, training requirements, and the administration of commercial services in wilderness.

V. Appendices

The appendices of the Level 3 Reference Manual are intended as a reference and bibliography for wilderness managers. This information includes: a glossary of wilderness terms, the text of the Wilderness Act, the *Wilderness Access Decision Tool* (not included in the draft due to bulk of the appendix document), examples of minimum requirement decision tools, the minimum requirements of a wilderness management plan, the Alaska National Interest Lands Conservation Act (not included in draft due to bulk of this Act), and a list of suggested readings relating to wilderness management.

Dated: August 18, 1998.

Maureen Finnerty,

Associate Director, Operations and Education.

[FR Doc. 98-24858 Filed 9-16-98; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act (CAA)

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *United States v. Beshara Management, et al.*, No. 5:97CV123 (N.D. W. Va.), was lodged on July 27, 1998, with the United States District Court for the Northern District of West Virginia.

The Consent Decree resolves the claims of the United States against the Defendants Beshara Management Inc., Riverside Plaza Partnership, Edward C. Beshara, Fred M. Beshara, and James Beshara, in connection with their operation of a renovation project carried out at the Riverside Plaza Shopping Center, a strip mall owned by the Defendants, located on Route 2 in New Martinsville, West Virginia. The Riverside Plaza project allegedly resulted in the unlawful removal and handling of asbestos-containing materials. The United States sought injunctive relief and the assessment of civil penalties against the Defendants for violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAP") for asbestos, promulgated pursuant to Sections 101, 112, 114, 116 and 301 of the Clean Air Act, 42 U.S.C. 7401, 7412, 7414, 7416 and 7601. Under the proposed Consent Decree, Defendants will be permanently enjoined from any future violations of the asbestos NESHAP at Riverside Plaza Shopping Center, and will pay to the United States the sum of \$105,000.00 in civil penalties.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Beshara Management, et al.* DJ # 90-5-2-1-2114 (N.D. W. Va.) Comments may also be addressed to Douglas J. Snyder, U.S. Environmental Protection Agency, Office of Regional Counsel, 1650 Arch Street, Philadelphia, PA 19103.

The Consent Decree may be examined and copied at the Office of the Clerk, U.S. District Court for the Northern District of West Virginia; or at the Region III Office of the Environmental Protection Agency, c/o, Douglas J. Snyder, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Consent Decree may also be obtained in person or by mail from the Consent Decree Library,

1120 G Street, NW, 3rd Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of \$2.75 (25 cents per page reproduction cost), payable to the Consent Decree Library.

Walker Smith,

Deputy Chief, Environmental Enforcement Section.

[FR Doc. 98-24935 Filed 9-16-98; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Pursuant to 28 CFR 50.7 and 42 U.S.C. 9622(d), notice is hereby given that on August 12, 1998, a proposed Consent Decree in *United States v. Coltec Industries, Inc., et al.*, Civil Action No. 98-10034 was lodged with the United States District Court for the Eastern District of Michigan.

The United States has asserted, in a civil complaint under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, that the Defendants, Coltec Industries, Inc., Illinois Tool Works, Inc., Mitchell Manufacturing Group, Inc., StageRight Corporation, Textron, Inc., and United Technologies Automotive, Inc., are potentially responsible parties (PRPs) at the Clare Water Supply Superfund Site in the City of Clare, Clare County, Michigan.

Under the proposed Consent Decree, the Defendants have agreed to pay \$510,756.00 to the Hazardous Waste Superfund for past costs incurred through October 31, 1997, to pay future response costs, and to perform Work for Operable Unit Two of the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Coltec Industries, Inc., et al.*, Civil Action No. 98-10034, D.J. Ref. 90-11-2-1212.

The Consent Decree may be examined at the Office of the United States Attorney for the Eastern District of Michigan, 211 West Fort Street, Suite 2001, Detroit, MI 48226-3211; at the Region 5 Environmental Protection Agency Library, Reference Desk, 77 W.

Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, 202-624-0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of \$110.25 (inclusive of Appendices) (25 cents per page reproduction cost) payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 98-24936 Filed 9-16-98; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration**Working Group Studying; Retirement Plan Leakage—Cashing In Your Future from ERISA Employer-Sponsored Pension Plans Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting**

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Tuesday, October 6, 1998, of the Retirement Plan Leakage—Cashing in Your Future—Working Group of the Advisory Council on Employee Welfare and Pension Benefit Plans. The group is studying pre-retirement distributions, including in-service distributions, hardship loans and participant loans from ERISA employer-sponsored pension plans.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue NW, Washington, DC 20210, is for Working Group members to draft their report and/or recommendations on the import of these "pension preservation" issues for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before October 1, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their

request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 1, 1998, at the address indicated in this notice.

Organizations or individuals also may submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 1.

Signed at Washington, DC this 10th day of September, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-24860 Filed 9-16-98; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group Studying Small Businesses: How to Enhance and Encourage the Establishment of Pension Plans; Advisory Council on Employee Welfare and Pension Benefits Plans

Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Monday, October 5, 1998, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group studying the obstacles to why small businesses are not establishing retirement vehicles for their employees when so many different savings arrangements are available. The Working Group also is focusing on how to encourage these businesses to establish such pension plans.

The session will take place in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW, Washington 20210. The purpose of the open meeting, which will run from 1:00 p.m. to approximately 4:00 p.m., is for Working Group members to draft their report and/or recommendations their report for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before October 1, 1998, to Sharon

Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW, Washington, D.C. 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by October 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 1.

Signed at Washington, D.C. this 10th day of September 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-24861 Filed 9-16-98; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on the Disclosure of the Quality of Care in Health Plans Advisory Council on Employee Welfare and Pension Benefits Plans

Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group established by the Advisory Council on Employee Welfare and Pension Benefit Plans to study what kind of information on the quality of care in health plans should be transmitted to fiduciaries and participants and how the information should be transmitted will hold an open public meeting on Monday, October 5, 1998, in Room N-4437 C&D, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210.

The purpose of the open meeting, which will run from 9:30 a.m. to approximately noon, is for Working Group members to begin drafting their report and/or recommendations for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to

the topic by submitting 20 copies on or before October 1, 1998, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 219-8753. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Sharon Morrissey by September 1, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 1.

Signed at Washington, DC this 10th day of September, 1998.

Meredith Miller,

Deputy Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 98-24862 Filed 9-16-98; 8:45 am]

BILLING CODE 4510-29-M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Tuesday, November 10, 1998, from 8:30 a.m. to 10:00 a.m. The public sessions of the Commission and the Committee meeting will be held on Tuesday, November 10, from 10:00 a.m. to 6:00 p.m., on Wednesday, November 11, from 8:30 a.m. to 6:00 p.m., and on Thursday, November 12, from 8:30 a.m. to 12:30 p.m.

PLACE: The Double Tree Hotel, 1230 Congress Street, Portland, Maine, 04102. Phone number 800/989-3856. Fax number 201/761-1560.

STATUS: The executive session will be closed to the public. At it, matters relating to international negotiations in process, personnel, and the budget of the Commission and will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed as time permits and as determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. The focus of the meeting will be on species that occur in waters along the East Coast of the United States. While subject to change, major issues that the Commission plans to consider at the meeting include: the conservation of northern right whales, research and management issues related to the Gulf of Maine population of harbor porpoise, New England pinniped-fishery interactions, humpback whales, sources and effects of anthropogenic noise in the marine environment, whale watching activities in New England, bottlenose dolphins in coastal Atlantic waters, and research related to the effects of the eastern tropical Pacific tuna fishery on dolphins.

CONTACT PERSON FOR MORE INFORMATION: John R. Twiss, Jr., Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 905, Bethesda, MD, 20814, 301/504-0087.

Dated: September 14, 1998.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 98-25024 Filed 9-15-98; 10:40 am]

BILLING CODE 6820-01-M

NATIONAL SCIENCE FOUNDATION

50th Anniversary Public Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: 50th Anniversary Public Advisory Committee (5213).

Date and Time: October 15, 1998—(9:00 a.m.–5:00 p.m.) and October 16, 1998—(9:00 a.m.–Noon).

Place: NSF Headquarters, 4201 Wilson Boulevard, Suite 1235, Arlington, VA.

Type of Meeting: Open.

Contact Person: Ms. Mary Bullock, Section Head-Special Projects Section, Office of Legislative and Public Affairs, Suite 1245, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1070.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation in highlighting 50 years of U.S. achievements in science and engineering research and education, and in increasing awareness of the role of U.S. support of science and engineering plays in enabling world leadership in these fields.

Agenda: Public Advisory Committee members will receive their charge to encourage celebrations of NSF's 50th anniversary in the research and education

communities with which they are connected. Members will discuss ideas and purpose plans for anniversary activities such as symposia among academic, government and other leaders; public outreach events to engage communities of the general public in activities that build interest in science and technology, and other means of increasing public and understanding and appreciation of science and technology.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24947 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel in Earth Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Proposal Review Panel in Earth Sciences (1569).

Date and Time: October 7-9, 1998; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 310.

Type of Meeting: Closed.

Contact Person: Dr. Leonard E. Johnson, Program Director, Continental Dynamics Program, Division of Earth Sciences, Room 785, National Science Foundation, 4210 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306-1559.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Continental Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24949 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Division of Environmental Biology; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meetings.

Name Advisory Panel for Ecological Studies (1751).

Date & Time: October 13-16, 1998, 8:30 am-5:00 pm each day.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Scott L. Collins, Program Director, Ecological Studies, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1483.

Minutes: May be obtained from the contact person listed above.

Agenda: To review and evaluate Ecology proposals as part of the selection process for awards.

Name Advisory Panel for Ecological Studies (1751).

Date & Time: October 6-9, 1998, 8:30 am-5:00 pm each day.

Place: Room 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Penelope Firth, Program Director, Ecological Studies, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306-1479.

Minutes: May be obtained from the contact person listed above.

Agenda: To review and evaluate Ecosystem Studies proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24946 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: October 15-16, 1998, 9:00 a.m. to 5:00 p.m.

Place: Room 310, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Emmeline Edwards, Program Director, Behavioral Neuroscience; Dr. Roy White, Program Director, Computational Neuroscience; Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306-1416.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 16, 1998; 11:00 a.m. to 12:00 p.m., to discuss goals and assessment procedures. Closed Session: October 15, 1998; 9:00 a.m. to 5:00 p.m.; October 16, 9:00 a.m. to 11:00 a.m., and 12:00 p.m. to 5:00 p.m. To review and evaluate Behavioral Neuroscience proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552(b)(4) and (6) of the Government in the Sunshine Act.

Dated: September 14, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98-24948 Filed 9-16-98; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

GPU Nuclear, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

This document corrects a notice appearing in the **Federal Register** on September 10, 1998 (63 FR 48527). This action is necessary to correct an erroneous date.

On page 48528, in the center column, in the fourth complete paragraph, in the first line, the date "October 9, 1998," should be corrected to read "October 13, 1998."

Dated at Rockville, Maryland, this 11th day of September 1998.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 98-24924 Filed 9-16-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-3453]

Proposed Cleanup of the Atlas Uranium Mill Tailings; Notice of Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of upcoming public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) is conducting a public meeting on September 16, 1998, to discuss the proposed cleanup of the Atlas uranium mill tailings at its site near Moab. The meeting location is the Grand County High School Auditorium, 439 S. 400 East, Moab, Utah. The meeting will begin at 7:30 p.m.

Atlas, an NRC licensee, has submitted a plan to stabilize its mill tailings on site. The NRC has not yet made a final determination on the acceptability of this plan. The NRC Staff will make a presentation at the beginning of the meeting to provide background on NRC's regulatory review process and the progress of the review since the last public meeting held in Moab in February 1996. The meeting will then be open for members of the public to ask questions.

FOR FURTHER INFORMATION CONTACT:

Myron Fliegel, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-7238; e-mail. mhfl@nrc.gov

Dated at Rockville, Maryland, this 11th day of September, 1998.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98-24925 Filed 9-16-98; 8:45 am]

BILLING CODE 7590-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8681]

White Mesa Uranium Mill; Notice of Meeting

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of upcoming public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) is conducting a public meeting in Blanding, Utah, on September 17, 1998, to discuss the

regulatory oversight of the International Uranium Corporation's nearby White Mesa uranium mill. The meeting will be at the San Juan County Library, 25 W. 300 South Street, beginning at 7:30 p.m.

White Mesa is an NRC-licensed mill that produces uranium for commercial nuclear power plants. The focus of the meeting will be on NRC oversight of the mill, with particular emphasis on how NRC will evaluate any future applications from International Uranium to process uranium-bearing material other than natural ores, from off-site locations.

FOR FURTHER INFORMATION CONTACT: James Park, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415-6699; e-mail. jrp@nrc.gov.

Dated at Rockville, Maryland, this 11th day of September, 1998.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 98-24923 Filed 9-16-98; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23433; 812-10634]

Emerging Markets Growth Fund, Inc.; Notice of Application

September 11, 1998.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 22(e) of the Act and rule 22c-1 under the Act.

SUMMARY OF APPLICATION: The order would permit applicant Emerging Markets Growth Fund, Inc. ("EMGF") to operate as a registered open-end investment company that would redeem its shares at monthly intervals.

FILING DATES: The application was filed on April 25, 1997, and amended on July 31, 1998.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on

October 6, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Capital International, Inc., 11100 Santa Monica Boulevard, Los Angeles, CA 90025.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Attorney, at (202) 942-0572 or Christine Y. Greenlees, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (telephone (202) 942-8090).

Applicant's Representations

1. EMGF, a Maryland corporation, is a closed-end management investment company registered under the Act. EMGF's shares are registered under the Securities Act of 1933 (the "1933 Act"). Capital International, Inc. (the "Adviser"), registered under the Investment Advisers Act of 1940, serves as EMGF's investment adviser. EMGF's investment objective is to seek long-term capital growth by investing in equity securities of issuers in developing countries.

2. EMGF's shares are not listed on any securities exchange (except for a nominal listing on the Luxembourg Stock Exchange). EMGF offers new shares for sale on a limited basis to investors that meet certain suitability criteria prescribed by EMGF. EMGF's current investor suitability criteria provide that a prospective investor that is a "company" (as defined in section 2(a)(8) of the Act) must have total assets in excess of \$5 million and that each prospective investor that is a natural person must be an "accredited investor" within the meaning of Regulation D under the 1933 Act. Under EMGF's articles of incorporation, outstanding shares of EMGF may be transferred only to persons who meet this suitability criteria. Because of these restrictions on transferability, and EMGF's concern that its shares, if listed on a securities exchange, might trade at a discount to their net asset value ("NAV"), a

secondary market in EMGF's shares has not developed.

3. EMGF would like to be able to offer its shareholders an opportunity to dispose of their shares at NAV should they wish to do so, without unduly disrupting EMGF's portfolio or interfering with EMGF's investment objectives. EMGF states that it considered making periodic tender offers to its shareholders, but believes that the process is cumbersome, expensive and of limited benefit to the shareholders. EMGF also considered relying on rule 23c-3 under the Act, the "closed-end interval fund" rule, that permits closed-end funds to make periodic repurchase offers to their shareholders as an alternative to periodic tender offers. EMGF concluded that this alternative was undesirable because of the rule's restrictions on the frequency and amount of repurchase offers. EMGF also states that its portfolio, which consists primarily of equity securities of issuers in emerging markets, is not sufficiently liquid to enable EMGF to operate as a traditional open-end fund that redeems its shares daily.

4. EMGF thus proposes to convert into a registered open-end investment company. EMGF would redeem its shares monthly, as further described in this notice ("Redemption Policy"). The Redemption Policy would be a fundamental policy of EMGF, changeable only by vote of a majority of the outstanding voting securities of EMGF, as defined in the Act. EMGF's existing shareholders have approved the Redemption Policy. EMGF's board of directors (the "Board"), including a majority of directors who are not "interested persons," as defined in section 2(a)(19) of the Act, also has approved the Redemption Policy.

5. Under EMGF's proposal, EMGF's new investors will be limited to "qualified purchasers," within the meaning of section 2(a)(51) of the Act and the rules and SEC interpretive positions under the Act.¹ Existing shareholders who are not qualified purchasers will be permitted to remain shareholders of EMGF and to purchase additional shares. Prior to relying on the requested order, EMGF will implement procedures to assure that shares are not transferred by shareholders to third parties that are not qualified purchasers. EMGF's current articles of incorporation provide that transfer to EMGF's shares may be made only to those investors

that satisfy EMGF's suitability criteria specified by the Board. As provided for in EMGF's articles of incorporation, the Board will amend the current share transfer restrictions to provide that no shareholder may transfer shares to any other person or entity that is not a qualified purchaser. EMGF would seek to enforce the transfer restriction against any shareholder who attempted to transfer shares in violation of the restriction. The Board may not further amend the share transfer restrictions to permit transfers to persons or entities other than qualified purchasers without the prior approval of the Commission.

6. Under the Redemption Policy, EMGF would accept redemption requests on or before the close of business on the first business day of each month (the "Redemption Request Deadline"). (The first Redemption Request Deadline will occur no sooner than 45 days after EMGF's prospectus is mailed to the shareholders. The prospectus will include disclosure of the change in share transfer restrictions discussed above.) Any redemption request received during the course of any calendar month would be effective as of the next Redemption Request Deadline. Redemption requests received prior to a Redemption Request Deadline would be revocable until the Redemption Request Deadline. On the Redemption Request Deadline, redemption requests would become irrevocable.² EMGF will price the shares for redemption at the close of business on the last business day of that month (the "Redemption Pricing Date"). EMGF would pay the proceeds of redemption requests within seven calendar days after the Redemption Pricing Date (the "Redemption Payment Date").

7. The Board will have the right to suspend the Redemption Pricing Date and the Redemption Payment Date only in accordance with section 22(e) of the Act.³ The Board will have the right to accelerate the Redemption Pricing Date and the Redemption Payment Date only if doing so would be in the best interests

² EMGF states that the irrevocability of redemption requests after the Redemption Request Deadline is necessary to permit the Adviser to make arrangements to meet redemption requests made as of that date with the least disruption of EMGF's portfolio.

³ Section 22(e) generally provides that the right of redemption may not be suspended and the date of payment may not be postponed except for a period during which the New York Stock Exchange ("NYSE") is closed or trading on the NYSE is restricted, during certain emergencies, or for periods as permitted by Commission order. Section 22(e) also provides that the Commission shall by rules and regulations determine the conditions under which (i) trading will be deemed to be restricted and (ii) an emergency will be deemed to exist.

¹ Section 2(a)(51) of the Act generally defines qualified purchasers as natural persons who own \$5 million of investments and institutions that own or manage on a discretionary basis \$25 million of investments.

of EMGF's shareholders and only upon the following conditions: (a) the Redemption Payment Date will occur within seven days of the accelerated Redemption Pricing Date; and (b) the Board finds that the accelerated Redemption Pricing Date is not likely to result in any significant dilution of interests of the redeeming or the remaining shareholders.⁴

8. EMGF states that at least 85% of its assets must either (a) mature by the next Redemption Payment Date; or (b) be capable of being sold between the Redemption Request Deadline and the Redemption Payment Date at approximately the price used in computing EMGF's NAV (the "Liquidity Standard"). The Liquidity Standard would be a fundamental policy of EMGF, changeable only by vote of a majority of the outstanding voting securities of EMGF, as defined in the Act.

9. EMGF will accept orders to purchase its shares on the last business day of each week and month. The purchase price will be the NAV next determined following receipt of the purchase order.⁵ To protect investors, purchase payments received by EMGF before the last business day of the week or month will be placed in a segregated account for the benefit of the purchaser.

10. EMGF states that any change in the Redemption Policy, the Liquidity Standard, or the operation of EMGF as described in the application that is not otherwise permitted by the Act and the rules under the Act will require approval by the SEC.

Applicant's Legal Analysis

1. Section 22(e) of the Act provides that a registered investment company may not suspend the right of redemption, or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of the security to the company. EMGF requests an exemption from section 22(e) to permit EMGF to redeem its shares on a monthly cycle.

2. EMGF states that the primary purpose of section 22(e) was to address the following abuses: (a) the lack of provisions in a fund's governing documents concerning redemption rights; (b) the ability of fund management to restrict redemptions

without shareholder approval; and (c) inadequate or misleading disclosure in fund documents and marketing materials concerning redemption rights. EMGF states that the Redemption Policy will not raise the possibility of any of these abuses. EMGF states that its existing shareholders have approved the Redemption Policy, and that the Redemption Policy will be changeable only by a majority vote of its shareholders and only upon approval by the SEC or its staff. EMGF further states that the Redemption Policy will be stated on the cover of its prospectus and in any marketing materials and that EMGF will not hold itself out as a "mutual fund." EMGF also states that its new investors will be limited to qualified purchasers, who EMGF asserts are unlikely to misunderstand their limited redemption opportunity. EMGF notes that Congress has determined that qualified purchasers are sophisticated investors who do not need the protections of the Act. Finally, as noted above, EMGF states that it would suspend the Redemption Pricing Date and the Redemption Payment Date only in accordance with section 22(e) of the Act.

3. EMGF asserts that the Liquidity Standard will enable EMGF to meet redemptions without unduly disrupting its portfolio. Any change in EMGF's Liquidity Standard will require approval by a majority of EMGF's shareholders and the SEC. In addition, EMGF states that it will comply with rule 2a-4 under the Act, which concerns the valuation of the portfolio securities of an open-end investment company, and any related SEC or staff interpretations or releases (except to the extent that EMGF may have its assets invested according to the Liquidity Standard).

4. Rule 22c-1 under the Act generally requires an open-end investment company to calculate its NAV each day on which an order to purchase or redeem its shares is received, and to price its shares for sale or redemption at a price next determined after receipt of a redemption request. EMGF requests relief from rule 22c-1 to postpone pricing its shares tendered for redemption on or before a Redemption Request Deadline until the next Redemption Pricing Date.

5. EMGF asserts that rule 22c-1 was designed primarily to prevent the practice of "backward pricing" of fund shares. EMGF argues that its proposal does not raise this concern because shares would be priced after a redemption request is received. EMGF also asserts that its proposed pricing timeline is consistent with the Act

because it is designed to treat all investors in EMGF equally and avoid any dilution of non-redeeming shareholders' interests. EMGF further asserts that its Redemption Policy will provide its existing shareholders with a greater opportunity to dispose of their shares than they have had in the past. In addition, EMGF states that since new investors will be qualified purchasers, they will be in a position to understand any risks associated with EMGF's pricing timeline.

6. EMGF also requests relief from rule 22c-1 to permit it to calculate its NAV and price shares for purchase only on the days on which EMGF actually will accept requests to purchase its shares (*i.e.*, on the last business day of each week and month). To protect investors, funds received prior to the date on which they will be invested in EMGF will be placed in a segregated account for the benefit of the purchaser.

7. Section 6(c) under the Act permits the SEC to exempt any person or transaction from any provision of the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act. For the reasons discussed above, EMGF submits that the requested order meets these standards. EMGF states that its proposal will enable it to offer its shareholders an opportunity to dispose of their shares at NAV should they wish to do so, without unduly disrupting EMGF's portfolio or interfering with EMGF's investment objectives.

Applicant's Conditions

EMGF agrees that any order of the SEC granting the requested relief will be subject to the following conditions:

1. EMGF's shareholders will have approved the Redemption Policy prior to EMGF's relying on the requested order (the "Reliance Date").

2. Any new investor purchasing EMGF's shares on or after the Reliance Date will be a "qualified purchaser" within the meaning of Section 2(a)(51) of the Act and the rules and SEC or staff interpretive positions under the Act.

3. Prior to the Reliance Date, the Board, including a majority of the disinterested directors, will have adopted procedures designed to assure that EMGF will comply with the terms and conditions of the requested order. The Board will review these procedures at least annually and approve such changes as it deems necessary.

4. EMGF will not hold itself out as a "mutual fund" and will disclose its Redemption Policy on the cover page of

⁴ The Board may not suspend the Redemption Request Deadline or the right to make redemption requests.

⁵ EMGF will maintain an "800" telephone number (or will use an equivalent method) to provide shareholders with ready access to updated information on the NAV of EMGF's shares.

its prospectus and in any marketing materials.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24959 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-26916]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

September 11, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 5, 1998, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 5, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

American Electric Power Company, Inc., et al.

(70-9353)

American Electric Power Company, Inc. ("AEP"), a registered holding company, and AEP Energy Services, Inc. ("AEPES") and AEP Resources, Inc. ("Resources"), wholly owned non-utility subsidiaries of AEP (collectively, "Applicants"), all located at 1 Riverside Plaza, Columbus, Ohio 43215, have filed an application-declaration under

sections 6(a), 7, 9(a), 10 and 12(b) of the Act, and rule 54 under the Act.

By orders dated September 13, 1996 (HCAR No. 26572) and September 27, 1996 (HCAR No. 26583) (collectively, "1996 Orders"), this Commission authorized AEP to form one or more direct or indirect nonutility subsidiaries to broker and market certain energy commodities. Applicants now propose to acquire, through December 31, 2003 (the "Authorization Period"), certain non-utility energy assets in the United States (collectively, "Energy Assets").¹ Energy Assets would be incidental to, and would assist Applicants and their subsidiaries in connection with the energy trading, marketing and brokering activities authorized in the 1996 Orders.²

In addition, Applicants propose to acquire the equity securities of companies substantially all of whose physical properties consist of Energy Assets ("Energy Asset Companies"). Investments in Energy Assets or Energy Asset Companies would not exceed \$800 million ("Investment Limitation").

Furthermore, AEP proposes to issue securities to finance the acquisition of Energy Assets or of the equity securities of Energy Asset Companies. Securities which AEP proposes to issue would include common stock, long-term debt securities and guaranties of indebtedness issued by AEPES, Resources and any existing or new, direct or indirect subsidiary of AEPES or Resources ("Applicant Subsidiaries"). These guaranties would also include guaranties of securities issued by any existing or new, direct or indirect special purpose financing subsidiary of Applicants organized specifically for the purpose of financing the acquisition of Energy Assets or of the equity securities of Energy Asset Companies ("Special Purpose Subsidiary"). In addition, Applicants request authority during the Authorization Period For Applicant Subsidiaries, as well as any Special Purpose Subsidiary, to issue debt or equity securities to finance these acquisitions, including guarantees as appropriate, to the extent such issuances are not exempt under rule 52 or rule 45(b).

The aggregate outstanding amount of all financings to acquire Energy Assets, or equity securities of Energy Asset

¹ Energy Assets include natural gas production, gathering, processing, storage and transportation facilities and equipment, liquid oil reserves and storage facilities, and associated facilities.

² They would also be incidental to, and used to assist any other energy trading, marketing or brokering subsidiary later acquired by Applicants in connection with these activities.

Companies, will not exceed the Investment Limitation. Borrowings incurred or guaranteed would be evidenced by notes having maturities of not greater than 15 years from the date of issue. The financing authority sought is in addition to the financing authority granted to AEP by Commission order dated May 4, 1988 (HCAR No. 26867).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24958 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40428; File No. SR-AMEX-98-23]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc. Relating to Integrated Market Making for Fund Shares

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 30, 1998, the American Stock Exchange, Inc. (the "Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Exchange Rules 175 and 958 to allow the trading of Fund Shares, options on Fund Shares and related index options at the same location on the Exchange's trading floor and by the same specialists and registered traders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Since 1992, the Exchange has listed and traded, pursuant to its equity trading rules, a number of products that derive their value from indexes or portfolios of other equity securities. These products include Exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies that hold securities based on an index or a portfolio of securities (These products are collectively referred to hereinafter as "Fund Shares").³

The Exchange proposes to amend Exchange Rules 175 and 958 to allow the trading of Fund Shares, options on Fund Shares and related index options at the same location or adjacent locations on the Exchange's trading floor and by the same specialist units and registered traders (hereinafter referred to as "Exchange-wide fund share market making"). Amex believes that Exchange-wide fund share market making will provide a climate in which reduced customer trading costs will result from narrower spreads, cross product arbitrage, integrated risk management, increased liquidity and depth, higher trading volume and more effective and efficient servicing of customer order flow while assuring that there will be no undue advantage or preference among participants in the marketplace. Recent and expected future growth in the listing and trading of Fund Shares and the anticipated approval of the Exchange's proposed

filing concerning the trading of options on Fund Shares will permit customers and market makers to manage risks and coordinate related positions with lower trading costs and more effective and efficient execution of their investment strategies.⁴

The Exchange believes the proposed rule change will promote market efficiency by allowing the same specialist unit and registered traders to trade a number of related products, realizing the cost reducing advantages of cross product arbitrage and integrated risk management. Such advantages will result in narrower spreads, increased liquidity and depth, and higher trading volume in the markets for risk-related Fund Shares, options on Fund Shares and index options. Most importantly, the Exchange believes the proposed rule change will result in more effective and efficient servicing of customers' orders at lower expected transaction costs to the customers.

The Exchange believes that the proposed integration of market making in Fund Shares, options on Fund Shares and their related index options can increase market quality and will provide both price and operational efficiencies while raising minimal issues of informational advantage due to the derivative nature of all of these products.⁵ Such informational advantages are minimal because pricing of the Fund Shares is not based on supply of and demand for the Fund Shares, but on the value of the underlying index or portfolio of securities. For example, unlike stocks, prices of which are based in part on information regarding the performance of the issuer and the supply of and demand for the stock in the secondary market, Fund Shares are priced according to the current market prices of the underlying components held in the Fund Shares' portfolio trust. The

specialist for the Fund Shares is privy to information that indicates the supply of and demand for the Fund Shares themselves, but the specialist cannot rely upon such information when pricing Fund Shares since the index or basket of securities upon which the Fund Shares are based may not move in the same manner that the supply of and demand for the Fund Shares indicates. Accordingly, the Exchange does not believe that knowledge of limit orders on the specialist's book for the Fund Shares themselves provides an informational advantage to the specialist when pricing or trading the Fund Shares. The fund share market is a derivative market of underlying stocks and the markets for index options and fund share options is, correspondingly, a further derivative of this underlying market.

The Commission has stated that "[t]he integration of trading in options and their underlying securities on an exchange floor may create opportunities to engage in manipulative and other improper trading activities that do not presently exist."⁶ In order for the integration of market making in fund shares and their overlying options to create opportunities for the specialist and registered options traders to engage in manipulative activity, market making in both products must yield information that can be used in such an endeavor. As discussed in the previous section, the Exchange believes that neither the specialist nor the traders in any or all of these products are privy to exclusive market information that is useful in pricing the fund shares. Like all market participants, they have access to last sale information for each of the component securities, the current quotes for the components and price information for any other products such as a futures contract that may be used in pricing the fund shares. What little market information the specialist and traders are able to glean on the Exchange floor is more than likely known by other market participants and already factored into prices and quotes. In addition, given the enhanced surveillance systems that monitor all trading floor activity today, attempts to manipulate the market by a specialist or trader will be readily detected.

Among other reasons why limit orders in Fund Shares are not a source of informational advantage is the number of Fund Shares issued and outstanding may be increased or decreased at a very low cost in response to changing demand for the Fund Shares. A defining characteristic of all Amex-listed unit

³ Currently, the Exchange trades unit investment trust securities known as Portfolio Depository ReceiptsSM ("PDRs") based on the Standard & Poor's 500[®] Composite Stock Price Index, the Standard & Poor's MidCap 400 IndexTM and the Dow Jones Industrial Average. In addition, the Exchange trades fund shares which are issued by an open-end management investment company consisting of seventeen separate series known as World Equity Benchmark SharesSM ("WEBs") based on seventeen foreign equity indexes. PDRs and WEBs are listed on the Amex pursuant to Rule 1000, et seq. and rule 1000A et seq., respectively, and trade like shares of common stock. The Exchange is developing other fund shares for listing and trading which will have structures similar to PDRs and WEBs and proposes to trade options on many such securities. (See, Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606 (March 14, 1996) for Fund Shares and Securities Exchange Act Release No. 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) for PDRs).

⁴ On July 1, 1998, the Commission approved a proposed rule change which permits the trading of options on Exchange-Traded Fund Shares. Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998).

⁵ At the Commission staff's request, the Exchange researched the issues of integrated market making and side-by-side trading. A letter setting forth the results of that research and an analysis of such activities with respect to Fund Shares and the overlying options was forwarded to the Commission staff. The letter reviews and analyzes Commission precedent for (and against) integrated market making as well as statements made by the Commission in the *Report of the Special Study of the Options Markets*, H.R. Rep. No. IFC3, 96th Cong. 1st sess. (Committee Print 1978) (referred to hereinafter as the "Options Study"). See, Letter from Claire P. McGrath, Vice President and Special Counsel, Derivative Securities Division, Amex, to Howard Kramer, Senior Associate Director, Division of Market Regulation, Commission, dated June 2, 1998.

⁶ *Options Study* at 885.

investment trust and management investment companies that hold securities based on an index or a portfolio of securities is that they are open-ended. New Fund Shares in these products may be created on any business day in response to an offer to purchase such shares. Accordingly, the ability of the seller of a call option on any such Fund Share to deliver upon exercise is a function of the availability of all the shares of the components represented in the trust, not just the share held by the fund itself. As a result, there is substantially less potential for manipulation of a Fund Share's price, since, unlike the market in a thinly traded corporate stock, the market for Fund Share's cannot be successfully squeezed or cornered because the potential supply to Fund Shares is, for all practical purposes, unlimited.

Lastly, although the Exchange believes that the proposed rule change will not increase the potential for trading abuse or manipulation, the Exchange currently has in place safeguards to detect and prevent any such abuse or manipulative activities. The Exchange believes its existing surveillance procedures are more than sufficient to detect any improper trading activity, deter any potential manipulative or improper trading activity and minimize the regulatory risks of integrated market making. The concentration of related product trading activity helps in the surveillance that assures that a customer receives a price appropriate to the state of the market when his order arrives on the trading floor. The Exchange conducts regular surveillance to detect any abuse or attempted manipulations and to insure compliance with its safeguards. The Exchange believes that the proximity of trading activity in related products will increase the effectiveness of these safeguards.⁷

⁷ In addition to the foregoing, in recent months the Commission has approved rule changes by other options exchanges which will permit these exchanges to list and trade, under unlisted trading privileges, some or all Fund Shares now listed on the Amex or which might be listed on the Amex or some other exchange in the future. In contrast to Amex rules which currently place limitations on option and equity trading locations and specialists' affiliations, the Amex believes that the rules of some of the other U.S. options exchanges impose no such limitations on trading locations, specialists' affiliations or market maker participation on these or related products. The proposed rule change will permit the Amex to conduct its business without unnecessary fetters not imposed on competitive markets. The changes will permit Amex specialists and market makers to use other related products traded on the Amex in the same way that specialists and market makers on other exchanges will be able to use related products traded on their exchanges in their market making and risk management

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act⁸ in general and furthers the objectives of Section 6(b)(5)⁹ in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange 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

activities in Fund Shares and related options products.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-98-23 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 98-24885 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40430; File No. SR-CBOE-98-06]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Rerouting of RAES Eligible Orders for the Last Five Minutes of the Scheduled Trading Day

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 20, 1998, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On April 9, 1998, the CBOE filed Amendment No. 1 to the proposed rule change with the Commission.³ On August 26, 1998, the CBOE filed Amendment No. 2 to the proposed rule change with the Commission.⁴ The

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange clarified when the new rule will operate. See Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Ken Rosen, Attorney, Division of Market Regulation ("Division"), Commission, dated March 31, 1998 ("Amendment No. 1").

⁴ In Amendment No. 2, the Exchange amended the proposed rule language to account for a new "RAES step-up" feature and further explained the

Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to turn off, five minutes prior to the scheduled close of the trading day, the feature of CBOE's Retail Automatic Execution System ("RAES")⁵ that re-routes orders away from RAES when the RAES price is inferior to the best bid or offer in any other market ("NBBO reject"). Moreover, the design of RAES will not allow the RAES "step-up" feature, which provides automatic price improvement for RAES orders in some circumstances, to be used while the NBBO reject feature is turned off.⁶ The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, when an order is routed to the Exchange's order routing system and is eligible for execution through RAES,⁷ the system checks whether the bid or offer (as appropriate for the type of order) on any other U.S. exchange is better than the current CBOE displayed price for that series. The Exchange receives quotes from the other exchanges through a feed into its mainframe computer from the Options

Price Reporting Authority ("OPRA"). If the CBOE price is no worse than the price elsewhere, the order will be automatically executed at that price through RAES. If there is a better price elsewhere, then, pursuant to Interpretation .02 to CBOE Rule 6.8, the order will be rerouted to the Designated Primary Market-Maker ("DPM") (in the case of an option assigned to that DPM) or to an Order Book Official (in the case of an option assigned to a market-making crowd) for non-automated handling of the order.⁸ This rerouting function is called the "NBBO reject" feature.

Interpretation .02 to CBOE Rule 6.8 provides two situations in which the NBBO reject feature may not be employed: where a "fast market" in the equity options that are the subject of the orders in question has been declared on the Exchange or where comparable conditions exist in the other market such that the firm quote requirements do not apply. The proposed rule change will add a third situation that will apply to all equity options at the close of the scheduled trading day.

Under the proposal, the Exchange will turn off the NBBO reject feature of RAES for equity options five minutes prior to the scheduled close of the trading day. Thus, where the current rules set a closing time of 3:02 p.m. for equity options, the NBBO reject feature would be turned off at 2:57 p.m. The Exchange is proposing this change because trading is often hectic during the last few minutes of the trading day and the Exchange often receives large numbers of RAES orders at the end of the day. If a large number of orders are rejected, the number of orders to be handled in a nonautomated manner in a finite period of time will increase. The Exchange believes that this situation could interfere with the fair and orderly close of trading.

It should be noted that when a RAES-eligible order is subjected to an NBBO reject, the order must still be filled in the crowd. There is no guarantee that the order will be executed at a better price than the order will be executed at a better price than the order would have received had it been automatically executed on RAES. During the trading day when there is not a fast market, a DPM or trading crowd will likely fill the order at the better bid or offer displayed elsewhere. However, at the end of the

trading day, the order, once rerouted, may be filled behind at a number of other orders. By the time the crowd or DPM is able to fill the order, the market may have moved substantially from the time at which the order was re-routed and the order may be filled at a price inferior to that at which RAES would have executed the order. In fact, the order may not be filled at all if the market has moved away from the order's limit price. The Exchange believes that turning off the NBBO reject feature of RAES for the last five minutes of the scheduled trading day will reduce the likelihood of these occurrences. Of course, the Exchange also will still retain the right to turn off the NBBO reject feature at other times during the trading day when a "fast market" has been declared or when the other exchange is not honoring its firm quote commitment.

The design of RAES also prevents the RAES "step-up" feature from being used while the NBBO reject feature is turned off.⁹ In Amendment No. 2, the Exchange represented that member firms that handle a large percentage of the RAES order flow have expressed their interest in turning off the reject feature, and consequently the RAES "step-up," during the last five minutes of the trading day because, in their informed opinion, it is more problematic if an order does not get filled at all (which is a possibility if the order is rejected for manual handling in the last few minutes of the trading day) than if an order is filled at the displayed CBOE price even though there may have been a better displayed quote on another exchange. These firms have stated that their customers are much more sensitive to the risk that their order will not be filled. In addition, these firms have indicated that in some circumstances the firm may talk to the trading crowd about making an adjustment for a customer if the customer believes he was disadvantaged by such a policy.¹⁰

2. Statutory Basis

The CBOE believes that the proposed rule change will help to allow the Exchange to close its market in a fair and orderly manner. As such, the Exchange believes the rule proposal is consistent with and furthers the objectives of Section 6(b)(5)¹¹ of the Act, in that it is designed the perfect the mechanisms of a free and open market and to protect investors and the public interest.

purpose of and justification for the proposal. See Letter from Timothy H. Thompson, Director, Regulatory Affairs, Legal Department, CBOE, to Richard Strasser, Assistant Director, Division, Commission, dated July 15, 1998 ("Amendment No. 2").

⁵ RAES is the Exchange's automatic execution system for small public customer market or marketable limit orders.

⁶ See Amendments No. 2.

⁷ See CBOE Rule 6.8.

⁸ However, when the NBBO is within one pricing increment of the CBOE price, a new RAES "step-up" feature may be employed to provide automatic execution in RAES at the NBBO. See Securities Exchange Act Release No. 40096 (June 16, 1998) 63 FR 34209 (June 23, 1998) (order approving proposal).

⁹ See amendment No. 2.

¹⁰ See amendment No. 2.

¹¹ 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Burden on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interests persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In particular, the Commission seeks comment on firms' continued best execution obligations in light of the proposal. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-98-06 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24886 Filed 9-16-98; 8:45am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 3440427; File No. SR-NASD-98-65]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to SelectNet Fees

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on August 27, 1998, the National Association of Securities Dealers, Inc. ("NASD" or "Association") through its wholly owned subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is herewith filing a proposed rule change to extend, through November 30, 1998, the fees currently charged under NASD Rule 7010(1) for the execution of transactions in SelectNet. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: (1) \$1.00 will be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part; (2) no fee will be charged to a member who receives and executes a directed SelectNet order; (3) the existing \$2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a \$0.25 fee will remain in effect for any member who cancels a SelectNet order. If no further action is taken, SelectNet fees will revert to their original \$2.50 per-side level on December 1, 1998.

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Nasdaq is proposing to again extend its current SelectNet fees. The reasons for Nasdaq's prevailing SelectNet fee structure were fully explained in its original fee structure proposal filed with the Commission in February of this year.² Since then, SelectNet usage has continued at significantly elevated levels, averaging over 120,000 daily executions in June and 140,000 executions each day in July of 1998. As such, Nasdaq believes that an extension of these reduced fees, through November 30, 1998, is warranted. Under the proposed extension, SelectNet fees would continue to be assessed in the following manner: charged to a member who receives and executes a directed SelectNet order; (3) the existing \$2.50 fee will remain in effect for both sides of executed SelectNet orders that result from broadcast messages; and (4) a \$0.25 fee will remain in effect for any member who cancels a SelectNet order. Nasdaq will continue to monitor and review SelectNet activity to determine if further extensions of its reduced SelectNet fee structure are appropriate. If no further action is taken, SelectNet fees will revert to their original \$2.50 per-side level on December 1, 1998.

For the reason set forth above, Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act,³ which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any

² Securities Exchange Act Release No. 39641 (February 10, 1998), 63 FR 8241 (February 18, 1998). Nasdaq's current reduced fee structure was originally approved for a 90-day trial period, commencing the day the proposal was published in the **Federal Register**. The reduced fees were extended in May 1998 and would expire on August 31, 1998, if not extended by this filing. See Securities Exchange Act Release No. 40050 (June 1, 1998), 63 FR 31254 (June 8, 1998).

³ 15 U.S.C. 78o-3(b)(5).

facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This filing applies to the assessment of SelectNet fees to NASD members, and thus the proposed rule change is effective immediately upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act and subparagraph (e)(2) of Rule 19b-4 thereunder⁴ because the proposal is establishing or changing a due, fee or other charge. At any time within 60 days of the proposed 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.⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 Room. Copies of such filing will also be

available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR-NASD-98-65 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98-24884 Filed 9-16-98; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Proposed Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the OCC is soliciting comment on a new survey it proposes to conduct among national banks. Some national banks have publicly announced pledges or commitments to undertake lending, investment, or other activities pertaining to their obligations under the Community Reinvestment Act (CRA). The OCC's survey is designed to learn how these banks monitor their progress in achieving the CRA commitments they have announced.

DATES: Written comments should be submitted by November 16, 1998.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557-CCRA, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874-5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting Jessie Gates or Camille Dixon, (202) 874-5090, Legislative and Regulatory Activities Division (1557-CCRA).

SUPPLEMENTARY INFORMATION:

Title: Survey of CRA Commitments and Actions.

OMB Number: None.

Form Number: Not Applicable.

Abstract: Over the last few years, some national banks that have

completed mergers or acquisitions have publicly announced commitments to undertake lending, investment, or other Community Reinvestment Act-related activities. (Publicly announced pledges or undertakings of this type are referred to in this notice as "CRA commitments;" purely private arrangements or commitments are not included). These CRA commitments frequently extend for several years or more and may call for the bank to establish a variety of different new programs. The OCC believes that national banks should regularly monitor their progress toward achieving any commitments they have announced in order to ensure that their CRA commitments will be satisfied in a timely way. The OCC therefore proposes to survey national banks that have made public CRA commitments to see what systems and procedures they have in place to track their progress in achieving their announced goals.

The survey will provide the OCC with information about the adequacy of banks' monitoring systems. The OCC will use the results of the survey as background information in its examination and policymaking processes.

The questions that the OCC proposes to include in this survey are as follows.

CRA Commitment Survey

1. Within the past 5 years, has the bank publicly announced any pledge or commitment to undertake CRA lending, investment, provision of services, or other activity? (In this survey, we refer to such a pledge or commitment as a "CRA commitment.")

☐ Yes ☐ No

2. Does the bank have a system in place to track its progress toward achieving its CRA commitment?

☐ Yes ☐ No

3. If the bank has written policies or procedures describing its tracking system, please provide a copy.

4. If the bank has a tracking system in place, please describe on a separate sheet its principal features. Your description should address the following questions.

(a) How does the bank set goals or targets for meeting its CRA commitments (e.g., by dollar amount per quarter or per year)?

(b) How often does the bank monitor progress toward its goals?

(c) How does the bank monitor its progress (e.g., along business lines, by geographic area, according to specific programs, etc.)?

(d) How does the bank gather information about its progress? Does the bank solicit feedback from external

⁴ 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b-4(e)(2).

⁵ In reviewing the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁶ 17 CFR 200.30-3(a)(12).

sources (e.g., community groups, local businesses) to help it monitor its progress?

(e) How is the bank's tracking system managed and operated, e.g., at what level of bank management does accountability for the system reside, how many bank employees staff the system, etc.?

(f) How is progress reported to the bank's board of directors?

(g) Does the bank make available to its customers or to the general public information about its progress toward meeting its CRA commitment? If so, how does the bank communicate that information?

5. If the bank has no tracking system in place, how does the bank measure its progress toward achieving its CRA commitment?

(End of proposed CRA Commitment Survey)

Type of Review: New collection.

Affected Public: Businesses.

Number of Respondents: 50 respondents.

Total Annual Responses: 50 responses.

Frequency of Response: One time only.

Total Annual Burden: 100 hours.

Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 10, 1998.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 98-24863 Filed 9-16-98; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Today, the Office of Thrift Supervision within the Department of the Treasury solicits comments on the information collection entitled Minority Thrift Certification Form.

DATES: Submit written comments on or before November 16, 1998.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550-0096. Hand deliver comments to 1700 G Street, NW. from 9:00 A.M. to 5:00 P.M. on business days. Send facsimile transmissions to FAX Number (202) 906-7755 or (202) 906-6956 (if the comment is over 25 pages). E-mail to public.info@ots.treas.gov and include your name and telephone number. Interested persons may inspect comments at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days.

Interested persons may also inspect copies of the Form with instructions at 1700 G Street, NW., from 9:00 A.M. until 4:00 P.M. on business days or from PubliFax, OTS' Fax-on-Demand system, at (202) 906-5660.

FOR FURTHER INFORMATION CONTACT: Caryn Stein, Compliance Policy, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906-7020.

SUPPLEMENTARY INFORMATION:

Title: Minority Thrift Certification Form.

OMB Number: 1550-0096.

Form Number: OTS Form 1661.

Abstract: This information is needed to help OTS maintain a reliable source of information regarding the universe of minority-owned thrifts, in accordance with our responsibilities under Section 308 of FIRREA.

Current Actions: OTS proposes to renew this information collection without revision.

Type of Review: Renewal of an already approved collection.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 36.

Estimated Time Per Respondent: .5 average hours.

Estimated Total Annual Burden Hours: 18 hours.

Request for Comments: The OTS will summarize comments submitted in response to this notice or will include these comments in its request for OMB approval. All comments will become a matter of public record. The OTS invites comment on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: September 11, 1998.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98-24892 Filed 9-16-98; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

September 11, 1998.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Number: 1550-0085.

Form Number: OTS Form 1602.

Type of Review: Renewal of an already approved collection.

Title: Ongoing Customer Survey for Interpretive Opinions.

Description: This information collection is needed to obtain feedback on the quality of opinions produced by the Office of Thrift Supervision in order

to meet the goals of the National Performance Review with respect to improving customer service on a long-term basis.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Reporters: 35.

Estimated Burden Hours Per Reporter: .25 average hours.

Frequency of Response: 1.

Estimated Total Reporting Burden: 8.75 hours.

Clearance Officer: Colleen M. Devine, (202) 906-6025, Office of Thrift Supervision, 1700 Street, N. W., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395-7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 98-24891 Filed 9-16-98; 8:45 am]

BILLING CODE 6720-01-P

UNITED STATES INFORMATION AGENCY

NIS REAC (Newly Independent States Regional Educational Advising Coordinator)

ACTION: Request for proposals.

SUMMARY: The Advising and Student Services Branch of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c)(3)-1 may submit proposals for candidates for the position of regional educational advising coordinator (REAC) in the NIS region. Ideally based in Moscow, the REAC would work to support and assist in the professional development of advising centers in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The REAC is the primary source of information related to educational advising for advisers in the field. In addition to responding to individual queries and supervising the distribution of a regional newsletter, the REAC would travel to advising centers to assist the organizations and staff responsible for those centers to operate them efficiently. The REAC would be responsible for maintain the network of advisers, for the coordination of training programs for NIS advisers, which may

include an annual conference, and for the facilitation of communication between and among advising centers, posts, and E/ASA in Washington.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87-256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries . . . ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations . . . and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world."

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Title and Number: All communications with USIA concerning this RFP should refer to the announcement's title and reference number E/ASA-99-06.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Monday, October 26, 1998. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted.

FOR FURTHER INFORMATION CONTACT:

The Advising and Student Services Branch, E/ASA, U.S. Information Agency, 301 4th Street, S.W., Washington, DC 20547, telephone: (202) 619-5434, fax: (202) 401-1433, email: ssheehan@usia.gov, to request a Solicitation Package containing more detailed criteria. Please request required application forms and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from USIA's website at <http://www.usia.gov/education/rfps>. Please read all information before downloading.

To Receive a Solicitation Package Via Fax on Demand: The entire Solicitation Package may be received via the Bureau's "Grants Information Fax on Demand System", which is accessed by calling 202/401-7616. Please request a "Catalog" of available documents and

order numbers when first entering the system.

Please specify USIA Program Officer Sharen Sheehan on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and eight copies of the application should be sent to: U.S. Information Agency, Ref.: E/ASA-99-06, Office of Grants Management, E/XE, Room 336, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104-319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," USIA "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

The overall goal for the NIS Regional Educational Advising Coordinator (REAC) is to develop and strengthen the network of USIA-Supported overseas educational advising centers and to provide leadership and expertise in educational advising issues to advising centers and USIS posts. The REAC will be responsible for providing on-site technical assistance and training to

existing centers in the NIS and for coordinating the establishment of new advising centers, as directed by individual embassies in consultation with E/ASA. The REAC should lend support to any center in the twelve countries comprising the NIS region. The NIS REAC, acting as educational advising coordinator for the area, should work impartially with all organizations involved in educational advising in the NIS to enable them to provide accurate and timely information on U.S. higher educational opportunities. The REAC must work closely with E/ASA and NIS USIS posts to help establish priorities for educational advising in the region. The REAC must be a US citizen. Applicants may request from E/ASA a more comprehensive listing of expected REAC duties, entitled "REAC Guidelines." Contact the "For Further Information" address given above.

Guidelines

Responsibilities include:

1. Site visits to advising centers
2. Providing information and guidance in response to specific questions related to educational advising, as requested by centers
3. Supervising production of a newsletter, electronic bulletin board, email discussion list, or other methods of sharing information among centers
4. Organization and oversight of an internship program for approximately five novice advisers at the Moscow American Center; other internship training programs (ITPs) as necessary
5. In-country workshops: One all-region workshop and two to three smaller workshops, or as determined in consultation with E/ASA and US Posts
6. Consultations with posts and E/ASA on the direction and priorities of educational advising
7. Evaluation and Follow-up

Proposed Budget

Applicants must submit a comprehensive line item budget based on the budget guidelines in the PSI. USIA's grant assistance, up to \$95,000 in total, is expected to constitute only a portion of the total funding; cost sharing is required and the proposal should list other anticipated sources of support.

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to \$60,000.

Applicants must submit a comprehensive budget. There must be a summary budget as well as a breakdown reflecting travel cost details.

Allowable costs for the program include the following:

- (1) REAC Salary of not more than \$40,000 plus fringe benefits;
- (2) Administrative assistant salary
- (3) travel throughout region and per diem;
- (4) travel for REAC to attend the NAFSA National Conference in Denver, CO and REAC meetings in Washington, DC in spring 1999.
- (5) office and administrative costs
- (6) program costs for Internship Training Programs Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA EEN Area Office. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to Agency mission.
2. *Program planning:* Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agency and plan should adhere to the program overview and guidelines described above.
3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.
4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding and be designed to enable advising centers to reach as large and diverse an audience as possible.
5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity.

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Project Evaluation:* Proposals should include a plan to evaluate the REAC activities' impact. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. The award-receiving organization will be expected to submit trip reports after each site visit and semi-annual reports reviewing the over-all status of educational advising in the NIS.

9. *Cost-effectiveness:* The overhead and administrative components of the proposal, should be kept as low as possible. All other items should be necessary and appropriate.

10. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

11. *Value to U.S.-Partner Country Relations:* Proposed programs should receive positive assessments by USIA's geographic area desk and overseas officers of program need, potential impact, and significance in the partner country(ies).

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: September 10, 1998.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 98-24824 Filed 9-16-98; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Medical Research Service Merit Review Committee, Notice of Meetings

The Department of Veterans Affairs gives notice under the Federal Advisory

Committee Act, 5 U.S.C. Appendix, of the following subcommittee meetings to be held from 8 a.m. to 5 p.m. as indicated below:

Subcommittee	Date	Location
Endocrinology	September 24-25, 1998.	Holiday Inn Central.
Aging and Clinical Geriatrics	September 25, 1998	Holiday Inn Central.
Alcoholism and Drug Dependence	September 28, 1998	Holiday Inn Central.
Nephrology	October 1, 1998	Radisson Barcelo Hotel.
Gastroenterology	October 1-2, 1998 ..	Holiday Inn Central.
Cardiovascular Studies	October 12-13, 1998.	St. James Suites.
Respiration	October 13, 1998	St. James Suites.
Infectious Diseases	October 15-16, 1998.	Crowne Plaza Hotel.
Oncology	October 19-20, 1998.	Radisson Barcelo Hotel.
Hematology	October 22, 1998	Crowne Plaza Hotel.
Mental Health and Behavioral Sciences	October 22-23, 1998.	Holiday Inn Central.
Surgery	October 24, 1998	Clarion Plaza Hotel.
General Medical Science	October 26-27, 1998.	Radisson Barcelo Hotel.
Neurobiology	October 27-29, 1998.	Holiday Inn Central.
Immunology	October 29-30, 1998.	Holiday Inn Central.
Medical Research Service Merit Review Committee	December 3, 1998 ..	Holiday Inn Central.

The addresses of the hotels are listed below:

Clarion Plaza Hotel, 9700 International Drive, Orlando, FL 32819

Crowne Plaza Hotel, 1001 14th Street, NW, Washington, DC 20005

Holiday Inn Central, 1501 Rhode Island Avenue, NW, Washington, DC 20005

Radisson Barcelo Hotel, 2121 P Street, NW, Washington, DC 20037

St. James Suites, 950 24th Street, NW, Washington, DC 20037

These subcommittee meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Department of Veterans Affairs (VA) investigators working in VA Medical Centers and Clinics.

The subcommittee meetings will be open to the public for approximately one hour at the start of each meeting to discuss the general status of the program. The remaining portion of each subcommittee meeting will be closed to the public for the review, discussion, and evaluation of initial and renewal projects.

The closed portion of each subcommittee meeting involves discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research

protocols and similar documents. During this portion of the subcommittee meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly hinder implementation of proposed agency action regarding such research projects. As provided by subsection 10(d) of Public Law 92-463, as amended by Public Law 94-409, closing portions of these subcommittee meetings are in accordance with 5 U.S.C. 552b(c)(6) and (9)(B). Those who plan to attend or would like to obtain a copy of minutes of the subcommittee meetings and rosters of the members of the subcommittees should contact Dr. LeRoy Frey, Chief, Program Review Division, Medical Research Service, Department of Veterans Affairs, Washington, DC, (202) 275-6634.

Dated: September 11, 1998.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98-24895 Filed 9-16-98; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92-463 that a meeting of the Advisory Committee on Women Veterans will be held on September 21-26, 1998, at the Department of Veterans Affairs, Veterans Integrated Service Network (VISN) 12, Building 18, 5th Avenue and Roosevelt Road, Hines, IL 60104. The agenda will include tours of VA facilities throughout the Chicago metropolitan area. The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs, and activities administered by the Department of Veterans Affairs designed to meet such needs. The Committee will make recommendations to the Secretary regarding such activities.

All sessions will be open to the public. The sessions are coordinated by the VA Chicago Health Care System, West Side Division, 820 S. Damen Avenue, Chicago, IL 60612. For additional information regarding the

sessions, contact Ms. Melanie Harris, MSW, Coordinator, Women's Health Program, Room G-C111, at (312) 633-2168. Those who plan to attend should contact Ms. Maryanne Carson, Department of Veterans Affairs, Center for Women Veterans, 810 Vermont Avenue, NW., Washington, DC 20420, at (202) 273-6193. A tentative agenda follows.

Monday, September 21, 1998

9:00 a.m.—Overview of VISN 12 Women's Health Initiative, Overview of Women's Programs, Tour Women's Healthcare Clinic
 10:00 a.m.—Welcome to Hines VA Hospital
 10:30 a.m.—Hines Women Veterans Program and Services
 11:45 a.m.—Lunch
 12:45 p.m.—Tour Women's Health Clinic, Mammography Suite and Patient Education Resource Center. Address: VISN 12, Building 18, 5th Avenue & Roosevelt Road, Hines, IL
 2:00 p.m.—Depart from Hines VA Medical Center (VAMC)
 2:30 p.m.—Tour Hines VAMC Satellite Clinic—Oak Park. Address: 149 S. Oak Park Ave, Oak Park, IL
 3:00 p.m.—Tour Oak Park Vet Center. Address: 155 S. Oak Park Avenue, Oak Park, IL
 4:00 p.m.—Return to Hotel

Tuesday, September 22, 1998

8:45 a.m.—Arrive West Side VAMC
 9:00 a.m.—Welcome and Introductions; Overview of Program
 9:30 a.m.—Women's health Director
 10:00 a.m.—Tour Women's Health Clinic, Residential Programs and

Homeless Services. Address: 820 S. Damen Ave, Chicago, IL
 10:45 a.m.—Depart West Side VAMC
 11:00 a.m.—Arrive Lakeside VAMC Women Veterans Advisory Committee Meeting Women's Health Clinical Briefing/Tour. Address: 333 E. Huron, Chicago, IL
 12 noon—Lunch at Signature Restaurant, John Hancock Bldg., 92nd floor, Michigan Ave., Chicago, IL
 2:00 p.m.—Depart downtown Chicago, IL
 2:30 p.m.—Arrive 63rd Street Satellite Clinic/Vet Center Clinical Briefing/Tour
 3:00 p.m.—Veterans Resource Center Clinical Briefing/Tour Discussion on community resources for women veterans and homeless shelters. Address: 1502 E. 63rd Street, Chicago, IL
 4:30 p.m.—Return to hotel

Wednesday, September 23, 1998

9:00 a.m.—West Side VAMC Director's Conference Room Overview VISN 12: Women's Health Services by Women Veterans Coordinators, Address: 820 S. Damen Ave. Chicago, IL
 12 noon—Lunch
 1:00 p.m.—Depart West Side VAMC
 1:30 p.m.—Arrive Veterans Benefits Administration Regional Office Overview Women Veterans Programs
 2:30 p.m.—Cemetery Systems Overview
 3:30 p.m.—Chicago Veterans Advisory Council Address: 536 S. Clark Street, Chicago, IL
 4:30 p.m.—Return to hotel

Thursday, September 24, 1998

9:30 a.m.—Arrive at North Chicago VAMC Tour Compensation and Pension Program, Bldg. 135, Rm. 138
 10:30 a.m.—Women Veterans Open Forum, Bourke Hall, Bldg. 4, Rm. 101
 11:30 a.m.—Dedication of Women Veterans Monument, front of Bldg. 133, Joan Furey, Director, Center for Women Veterans
 12 noon—Lunch: Nursing Conf. Rm., Bldg. 133, Clinical Addition, Rm. 3D-105h Address: 3001 Green Bay Road, North Chicago, IL
 1:00 p.m.—Depart for Evanston Vet Center
 2:00 p.m.—Arrive Evanston Vet Center
 2:30 p.m.—Tour Evanston Outpatient Program Address: 565 W. Howard St., Evanston, IL
 3:30 p.m.—Return to hotel

Friday, September 25, 1998

8:30 a.m.—Executive Session of Secretary's Advisory Committee on Women Veterans, Executive Plaza Hotel, 71 East Wacker Dr., Chicago, IL, Wacker A Conference Room.

Saturday, September 26, 1998

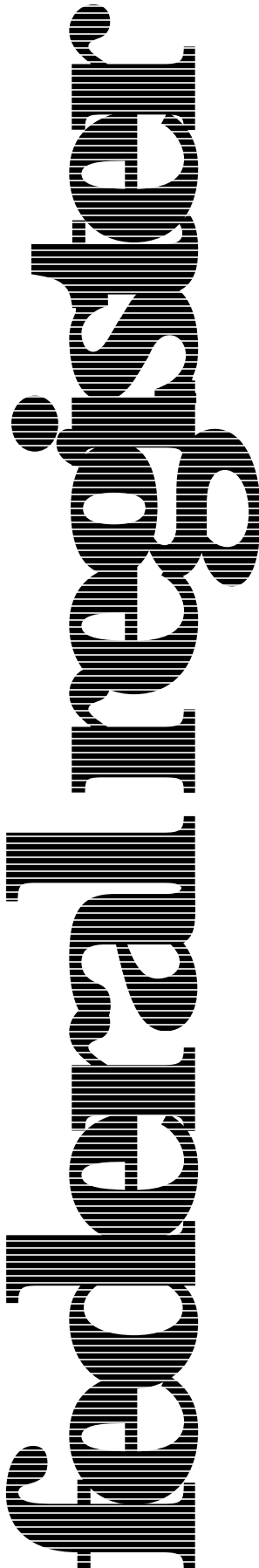
10:00 a.m.—Women Veterans Open Forum Address: West Side VAMC Atrium, 820 S. Damen Ave., Chicago, IL
 12 noon—Site visits concludes
 Dated: September 10, 1998.
 By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 98-24896 Filed 9-16-98; 8:45 am]

BILLING CODE 8320-01-M



Thursday
September 17, 1998

Part II

Office of Personnel Management

Excepted Service: Consolidated Listing of
Schedules; A, B, and C Exceptions;
Notice

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service: Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel
Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 1998, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, § 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Reinvention Office, Room 6500, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, or by calling (202) 606-0830.

The following exceptions were current on June 30, 1998.

Schedule A

Section 213.3102 Entire Executive Civil Service

(a) Positions of Chaplain and
Chaplain's Assistant.

(b) (Reserved).

(c) Positions to which appointments
are made by the President without
confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions.
Appointments under this paragraph
shall be confined to graduates of
recognized law schools or persons
having equivalent experience and shall
be for periods not to exceed 14 months
pending admission to the bar. No person
shall be given more than one
appointment under this paragraph.
However, an appointment that was
initially made for less than 14 months
may be extended for not to exceed 14
months in total duration.

(f) Chinese, Japanese, and Hindu
interpreters.

(g) Any nontemporary position the
duties of which are part-time or
intermittent in which the appointee will

receive compensation during his or her
service year that aggregates not more
than 40 percent of the annual salary rate
for the first step of grade GS-3. This
limited compensation includes any
premium pay such as for overtime,
night, Sunday, or holiday work. It does
not, however, include any mandatory
within-grade salary increases to which
the employee becomes entitled
subsequent to appointment under this
authority. Appointments under this
authority may not be for temporary
project employment.

(h) Positions in Federal mental
institutions when filled by persons who
have been patients of such institutions
and have been discharged and are
certified by an appropriate medical
authority thereof as recovered
sufficiently to be regularly employed
but it is believed desirable and in the
interest of the persons and the
institution that they be employed at the
institution.

(i) Temporary and less-than-full time
positions for which examining is
impracticable. These are:

(1) Positions in remote/isolated
locations where examination is
impracticable. A remote/isolated
location is outside of the local
commuting area of a population center
from which an employee can reasonably
be expected to travel on short notice
under adverse weather and/or road
conditions which are normal for the
area. For this purpose, a population
center is a town with housing, schools,
health care, stores and other businesses
in which the servicing examining office
can schedule tests and/or reasonably
expect to attract applicants. An
individual appointed under this
authority may not be employed in the
same agency under a combination of
this and any other appointment to
positions involving related duties and
requiring the same qualifications for
more than 1,040 working hours in a
service year. Temporary appointments
under this authority may be extended in
1-year increments, with no limit on the
number of such extensions, as an
exception to the service limits in
§ 213.104.

(2) Positions for which a critical
hiring needs exists. This includes both
short-term positions and continuing
positions that an agency must fill on an
interim basis pending completion of
competitive examining, clearances, or
other procedures required for a longer
appointment. Appointments under this
authority may not exceed 30 days and
may be extended up to an additional 30
days if continued employment is
essential to the agency's operations. The
appointments may not be used to extend

the service limit of any other appointing
authority. An agency may not employ
the same individual under this authority
for more than 60 days in any 12-month
period.

(3) Other positions for which OPM
determines that examining is
impracticable.

(j) Positions filled by current or
former Federal employees eligible for
placement under special statutory
provisions. Appointments under this
authority are subject to the following
conditions:

(1) *Eligible employees.* (i) Persons
previously employed as National Guard
Technicians under 32 U.S.C. 709(a) who
are entitled to placement under
§ 353.110 of this chapter, or who are
applying for or receiving an annuity
under the provisions of 5 U.S.C. 8337(h)
or 5 U.S.C. 8456 by reason of a disability
that disqualifies them from membership
in the National Guard or from holding
the military grade required as a
condition of their National Guard
employment;

(ii) Executive branch employees
(other than employees of intelligence
agencies) who are entitled to placement
under § 353.110 but who are not eligible
for reinstatement or noncompetitive
appointment under the provisions of
part 315 of this chapter.

(iii) Legislative and judicial branch
employees and employees of the
intelligence agencies defined in 5 U.S.C.
2302(a)(2)(C)(ii) who are entitled to
placement assistance under § 353.110.

(2) *Employees excluded.* Employees
who were last employed in Schedule C
or under a statutory authority that
specified the employee served at the
discretion, will, or pleasure of the
agency are not eligible for appointment
under this authority.

(3) *Position to which appointed.*
Employees who are entitled to
placement under § 353.110 will be
appointed to a position that OPM
determines is equivalent in pay and
grade to the one the individual left,
unless the individual elects to be placed
in a position of lower grade or pay.
National Guard Technicians whose
eligibility is based upon a disability may
be appointed at the same grade, or
equivalent, as their National Guard
Technician position or at any lower
grade for which they are available.

(4) *Conditions of appointment.* (i)
Individuals whose placement eligibility
is based on an appointment without
time limit will receive appointments
without time limit under this authority.
These appointees may be reassigned,
promoted, or demoted to any position
within the same agency for which they
qualify.

(ii) Individuals who are eligible for placement under § 353.110 based on a time-limited appointment will be given appointments for a time period equal to the unexpired portion of their previous appointment.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, and technical experts for consultation purposes.

(m) (Reserved).

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p)–(q) (Reserved).

(r) Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization. These programs may include: Internship or fellowship programs that provide developmental or professional experiences to individuals who have completed their formal education; training and associateship programs designed to increase the pool of qualified candidates in a particular occupational specialty; professional/industry exchange programs that provide for a cross-fertilization between the agency and the private sector to foster mutual understanding, an exchange of ideas, or to bring experienced practitioners to the agency; residency programs through which participants gain experience in a Federal clinical environment; and programs that require a period of Government service in exchange for educational, financial or other assistance. Appointment under this authority may not exceed 4 years.

(s) Positions with compensation fixed under 5 U.S.C. 5351–5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. Employment under this authority may not exceed 4 years.

(t) Positions when filled by mentally retarded persons in accordance with the guidance in Federal Personnel Manual chapter 306. Upon completion of 2 years of satisfactory service under this

authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v)–(w) (Reserved).

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) (Reserved).

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except

when the authority is specifically included in a delegated examining agreement with OPM.

(cc)–(ee) (Reserved).

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Public Law 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg)–(hh) (Reserved).

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to 1 additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj)–(kk) (Reserved).

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) (Reserved).

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) *Office of National Drug Control Policy.* (1) Not to exceed 15 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or

technical knowledge to aid in anti-drug abuse efforts.

Section 213.3104 Department of State

(a) *Office of the Secretary.* (1) All positions, GS-15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) One position of Museum Curator (Arts), in the Office of the Under Secretary for Management, whose incumbent will serve as Director, Diplomatic Reception Rooms. No new appointments may be made after February 28, 1997.

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c)-(f) (Reserved).

(g) *Bureau of Population, Refugees, and Migration.* (1) Not to exceed 10 positions at grades GS-5 through 11 on the staff of the Bureau.

(h) *Bureau of Administration.* (1) One Presidential Travel Officer. No new appointments may be made under this authority after June 11, 1981.

(2) One position of the Director, Art in Embassies Program, GM-1001-15.

Section 213.3105 Department of the Treasury

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of GS-13 through GS-17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(3) Not to exceed 20 positions in the Office of the Under Secretary (Enforcement). Employment under this authority may not exceed 4 years, and no new appointments may be made after July 31, 2001.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2)-(5) (Reserved).

(6) Three hundred positions of Criminal Investigator for special assignments.

(7)-(8) (Reserved).

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(d) *Office of Thrift Supervision.* (1) All positions in the supervision policy and supervision operations functions of OTS. No new appointments may be made under this authority after December 31, 1993.

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(2) Two positions of Senior Visiting Pension Actuary, GS-1510-14/15. Appointments to these positions must be for periods not to exceed 24 months.

(f) (Reserved).

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(h) (Reserved).

(i) *Bureau of Government Financial Operations.* (1) Clerical positions at grades GS-5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophes or natural disasters requiring emergency disbursing services. Employment under this authority may not exceed 1 year.

Section 213.3106 Department of Defense

(a) *Office of the Secretary.* (1) Two positions above GS-15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(2)-(5) (Reserved).

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S.

Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: *Provided*, that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS-12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(d) *General.* (1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This

authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.*

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS-15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS-10/15 to staff and support the Crisis Management Center at the White House.

(h) *Defense Systems Management College, Fort Belvoir, Va.* (1) The Provost and professors in grades GS-13 through 15.

(i) *George C. Marshall European Center for Security Studies, Garmisch, Germany.* (1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) *Asia-Pacific Center for Security Studies, Honolulu, Hawaii.* (1) The Director, Deputy Director, Dean of

Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

Section 213.3107 Department of the Army

(a)-(c) (Reserved).

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)-(f) (Reserved).

(g) *Defense Language Institute.* (1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or a knowledge of foreign language teaching methods.

(h) *Army War College, Carlisle Barracks, PA.* (1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved).

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head, and Instructor.

(k) *U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.* (1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4, or 5-year increments indefinitely thereafter.

Section 213.3108 Department of the Navy

(a) General. (1)-(14) (Reserved).

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and social counselors at the Naval Academy.

(c) *Chief of Naval Operations.* (1) One position at grade GS-12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e) *Pacific Missile Range Facility, Barking Sands, Hawaii.* (1) All positions. This authority applies only to positions that must be filled pending final decision on contracting of Facility operations. No new appointments may be made under this authority after July 29, 1988.

(f) (Reserved).

(g) *Office of Naval Research.* (1) Scientific and technical positions, GS/GM-13/15, in the Office of Naval Research Asian Office in Tokyo, Japan, which covers East Asia, New Zealand and Australia. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

Section 213.3109 Department of the Air Force

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Ninety-five positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS-11 through GS-15, in Detachments 6 and 51, SM-ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) (Reserved).

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved).

(f) *Air Force Office of Special Investigations*. (1) Not to exceed 250 positions of Criminal Investigators/Intelligence Research Specialists, GS-5 through GS-15.

(g) Not to exceed eight positions, GS-12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) *Air University, Maxwell Air Force Base, Alabama*. (1) Positions of Professor, Instructor, or Lecturer.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio*. (1) Civilian deans and professors.

(j) *Air Force Logistics Command*. (1) One Supervisory Logistics Management Specialist, GM-346-14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) One position of Supervisory Logistics Management Specialist, GS-346-15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

Section 213.3110 Department of Justice

(a) *General*. (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2)-(4) (Reserved).

(5) Two positions above GS-15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended for an additional period not to exceed 2 years.

(b) *Immigration and Naturalization Service*. (1) (Reserved).

(2) Not to exceed 500 positions of interpreters and language specialists, GS-1040-5/9.

(3) Not to exceed 25 positions, GS-15 and below, with proficiency in speaking, reading, and writing the

Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, Russia.

(c) *Drug Enforcement Administration*. (1) (Reserved).

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS-132 series, grades GS-9 through GS-15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS-7/11.

(d) *National Drug Intelligence Center*. All positions.

Section 213.3112 Department of the Interior

(a) *General*. (1) Technical, maintenance, and clerical positions at or below grades GS-7, WG-10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS-7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior

and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS-7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved).

(c) *Indian Arts and Crafts Board*. (1) The Executive Director.

(d) (Reserved).

(e) *Office of the Assistant Secretary, Territorial and International Affairs*. (1) (Reserved).

(2) Not to exceed four positions of Territorial Management Interns, grades GS-5, GS-7, or GS-9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved).

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional,

technical, and scientific duties as members of his or her immediate staff.

(f) *National Park Service.* (1–2) (Reserved).

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved).

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services;

agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided*, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of § 213.3102 or positions within the Forest Service.

(6) (Reserved).

(7) Not to exceed 34 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b)–(c) (Reserved).

(d) *Farm Service Agency.* (1) (Reserved).

(2) Members of State Committees: *Provided*, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) *Rural Development.* (1) (Reserved).

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM be further extended for additional periods not to exceed 1 year each.

(4)–(5) (Reserved).

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved).

(l) *Food Safety and Inspection Service.* (1)–(2) (Reserved).

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Grain Inspection, Packers and Stockyards Administration.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain),

GS-2/4; 100 positions of Agricultural Commodity Technician (Grain), GS-4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS-5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) *Alternative Agricultural Research and Commercialization Corporation*. (1) Executive Director.

Section 213.3114 Department of Commerce

(a) *General*. (1)–(2) (Reserved).

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b) (Reserved).

(c) One position above GS-15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(d) *Bureau of the Census*. (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved).

(i) *Office of the Under Secretary for International Trade*. (1) Fifteen positions at GS-12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved).

(3) Not to exceed 15 positions in grades GS-12 through GS-15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in

Domestic Business matters.

Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration*. (1)–(2) (Reserved).

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved).

(l) *National Telecommunication and Information Administration*. (1) Seventeen professional positions in grades GS-13 through GS-15.

Section 213.3115 Department of Labor

(a) *Office of the Secretary*. (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved).

(d) *Employment and Training Administration*. (1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS-7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services

(a) (Reserved).

(b) *Public Health Service*. (1) (Reserved).

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved).

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved).

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) (Reserved).

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(14) (Reserved).

(15) Not to exceed 200 staff positions, GS-15 and below, in the Immigration Health Service, for an emergency staff to provide health related services to foreign entrants.

(c)–(e) (Reserved).

(f) *The President's Council on Physical Fitness*. (1) Four staff assistants.

Section 213.3117 Department of Education

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3121 Corporation for National and Community Service

(a) All positions on the staff of the Corporation for National Community Service. No new appointments may be made under this authority after September 30, 1995.

Section 213.3124 Board of Governors, Federal Reserve System

(a) All positions.

Section 213.3127 Department of Veterans Affairs

(a) *Construction Division*. (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS-3 through GS-11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) *Board of Veterans' Appeals*. (1) Positions, GS-15, when filled by a member of the Board. Except as provided by section 201(d) of Public

Law 100-687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS-15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Not to exceed 600 positions at grades GS-3 through GS-11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

Section 213.3128 U.S. Information Agency

(a) *Office of Congressional and Public Liaison.* (1) Two positions of Liaison Officer (Congressional), GS-14.

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS-13 and GS-14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco, and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3129 Thrift Depositor Protection Oversight Board

(a) All positions. No new appointments may be made under this authority after December 31, 1995.

Section 213.3132 Small Business Administration

(a) When the President under 42 U.S.C. 1855-1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855-1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate

of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

Section 213.3133 Federal Deposit Insurance Corporation

(a)-(b) (Reserved).

(c) Temporary positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions. New appointments may be made under this authority only during the 60 days immediately following the institution's closing date. Such appointments may not exceed 1 year, but may be extended for not to exceed 1 additional year.

Section 213.3136 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Positions when filled by member-residents of the Home.

Section 213.3138 Federal Communications Commission

(a) Fifteen positions of Telecommunications Policy Analyst, GS-301-13/14/15. Initial appointment to these positions will be for a period of not to exceed 2 years with provision for two 1-year extensions. No new appointments may be made under this authority after May 31, 1998.

Section 213.3142 Export-Import Bank of the United States

(a) One Special Assistant to the Board of Directors, grade GS-14 and above.

Section 213.3146 Selective Service System

(a) State Directors.

Section 213.3148 National Aeronautics and Space Administration

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

Section 213.3155 Social Security Administration

(a) Six positions of Social Insurance Representative in the district offices of

the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

Section 213.3162 The President's Crime Prevention Council

(a) Up to 7 positions established in the President's Crime Prevention Council office created by the Violent Crime Control and Law Enforcement Act of 1994. No new appointments may be made under this authority after March 31, 1998.

Section 213.3165 Chemical Safety and Hazard Investigation Board

(a) Up to 30 positions established to create the Chemical Safety and Hazard Investigation Board. No new appointments may be made under this authority after December 31, 1998.

Section 213.3174 Smithsonian Institution

(a) (Reserved).

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) Positions at GS-15 and below in the National Museum of the American Indian requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

Section 213.3175 Woodrow Wilson International Center for Scholars

(a) One East Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, and one Social Science Program Administrator.

Section 213.3178 Community Development Financial Institutions Fund

(a) All positions in the Fund and positions created for the purpose of establishing the Fund's operations in accordance with the Community Development Banking and Financial Institutions Act of 1994, except for any positions required by the Act to be filled by competitive appointment. No new appointments may be made under this authority after September 23, 1998.

Section 213.3180 Utah Reclamation and Conservation Commission

(a) Executive Director.

Section 213.3182 National Foundation on the Arts and the Humanities

(a) *National Endowment for the Arts.*

(1) One position of Assistant Director, Artists-in-Education Programs, Office of Partnerships.

(2) One position of Assistant Director for State Programs.

(3) One position of Director of Literature Programs.

(4) One position of Assistant Director of Theater Programs.

(5) One position of Director of Folk Arts Programs.

(6) One position of Director, Opera/Musical Theater Programs.

(7) One position of Assistant Director of Opera/Musical Theater Programs.

(8) One position of Assistant Director of Literature Programs.

(9) One position of Director of Locals Test Programs, Office of the Deputy to the Chairman for Public Partnership.

(10) One position of Deputy Chairman for Public Partnership.

(11) Four Project Evaluators.

(12) One position of Director of Museum Programs.

(13) One position of Assistant Director of Folk Arts, Office of the Deputy Chairman for Programs.

(14) One position of Assistant Director of Music Programs.

(15) One position of Director of Expansion Arts Programs.

(16) One position of Director of Media Arts Programs.

(17) One position of Director, Challenge and Advancement Grant Program.

(18) One position of Assistant Director, Challenge and Advancement Grant Program.

(19) One position of Art Specialist, International Programs.

(20) One position of Director of Inter Arts Program.

(21) One position of Assistant Director of Expansion of Arts Programs.

(22) One position of Assistant Director of Media Arts Programs.

(23) One position of Assistant Director of Design Arts Program.

(24) One position of Assistant Director of Dance Programs.

(25) One position of Assistant Director of Visual Arts Programs.

(26) One position of Assistant Director of Museum Programs.

(27)–(29) (Reserved).

(30) One position of Director of Education Programs.

(31) One position of Director of Music Programs.

(32) One position of Director of Theater Programs.

(33) One position of Director of Dance Programs.

(34) One position of Director of Visual Arts Programs.

(35) One position of Director of Design Arts Program.

(36) (Reserved).

(37) One Director for State Programs.

(38) One Director for Artists-in-Education Programs.

(39) One position of Assistant Director of Inter-Arts Program.

(40) One position of Assistant Director of the International Program.

Section 213.3191 Office of Personnel Management

(a)–(c) (Reserved).

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation

(a) *U.S. Coast Guard.* (1) (Reserved).

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut.

(b)–(d) (Reserved).

(e) *Maritime Administration.* (1)–(2) (Reserved).

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved).

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect until April 15, 1998.

Section 213.3195 Federal Emergency Management Agency

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

(d) One position above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

Section 213.3199 Temporary Organizations

(a) Positions on the staffs of temporary boards and commissions which are

established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s), does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

Schedule B

Section 213.3202 Entire Executive Civil Service

(a) *Student Educational Employment Program—Student Temporary Employment Program.* (1) Students may be appointed to the Student Temporary Employment Program if they are pursuing any of the following educational programs:

- (i) High School Diploma or General Equivalency Diploma (GED);
- (ii) Vocational/Technical certificate;
- (iii) Associate degree;
- (iv) Baccalaureate degree;
- (v) Graduate degree; or
- (vi) Professional degree

* * * * *

[The remaining text of provisions pertaining to the Student Temporary Employment Program can be found in 5 CFR 213.3202(a).]

(b) *Student Educational Employment Program—Student Career Experience Program.* (1)(i) Students may be appointed to the Student Career Experience Program if they are pursuing

any of the following educational programs:

- (A) High school diploma or General Equivalency Diploma (GED);
- (B) Vocational/Technical certificate;
- (C) Associate degree;
- (D) Baccalaureate degree;
- (E) Graduate degree; or
- (F) Professional degree.

(ii) Student participants in the Harry S. Truman Foundation Scholarship Program under the provision of Public Law 93-842 are eligible for appointments under the Student Career Experience Program.

[The remaining text of provisions pertaining to the Student Career Experience Program can be found in 5 CFR 213.3202(b).]

* * * * *

(c)–(i) (Reserved).

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding 3 years for one individual.

(k) Positions at grades GS-15 and below when filled by individuals who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) (Reserved).

(m) Positions when filled under any of the following conditions: (1) Appointment at grades GS-15 and above, or equivalent, in the same or a different agency without a break in service from a career appointment in the Senior Executive Service (SES) of an individual who:

- (i) Has completed the SES probationary period;
- (ii) Has been removed from the SES because of less than fully successful executive performance or a reduction in force; and

(iii) Is entitled to be placed in another civil service position under 5 U.S.C. 3594(b).

(2) Appointment in a different agency without a break in service of an individual originally appointed under paragraph (m)(1).

(3) Reassignment, promotion, or demotion within the same agency of an individual appointed under this authority.

Section 213.3203 Executive Office of the President

(a) (Reserved).

(b) *Office of the Special Representative for Trade Negotiations.*

(1) Seventeen positions of economist at grades GS-12 through GS-15.

Section 213.3204 Department of State

(a)–(c) (Reserved).

(d) Fourteen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved).

(f) Scientific, professional, and technical positions at grades GS-12 to GS-15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Not to exceed 10 positions engaged in functions mandated by Public Law 99-190, the duties of which require expertise and knowledge gained as a present or former employee of the Synthetic Fuels Corporation, as an employee of an organization carrying out projects or contacts for the Corporation, or as an employee of a Government agency involved in the Synthetic Fuels Program. Appointments under this authority may not exceed 4 years.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS-13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employment under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years; or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever comes first.

Section 213.3206 Department of Defense

(a) *Office of the Secretary.* (1) (Reserved).

(2) Professional positions at GS-11 through GS-15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)-(4) (Reserved).

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS-15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) *National Defense University.* (1) Sixty-one positions of Professor, GS-13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS-301-15, U.S. European Command.

(2) Acquisition positions at grades GS-5 through GS-11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS-1811-5/15.

(f) *Department of Defense Polygraph Institute, Fort McClellan, Alabama.* (1) One Director, GM-15.

Section 213.3207 Department of the Army

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

Section 213.3208 Department of the Navy

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of Oceanographer, grade GS-14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS-15 level in the Defense Personnel Security Research and Education Center.

(d) All civilian professor positions at the Marine Corps Command and Staff College.

(e) One position of Staff Assistant, GS-301-14, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) One position of Housing Management Specialist, GM-1173-14, involved with the Bachelor Quarters Management Study. No new appointments may be made under this authority after February 29, 1992.

Section 213.3209 Department of the Air Force

(a) Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b) (Reserved).

(c) One Director of Instruction and 14 civilian instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

(d) Positions of Instructor or professional academic staff at the Air University, associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) One position of Director of Development and Alumni Programs, GS-301-13, with the U.S. Air Force Academy, Colorado.

Section 213.3210 Department of Justice

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS-5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved).

(c) Not to exceed 400 positions at grades GS-5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved).

(e) Positions, other than secretarial, GS-6 through GS-15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

Section 213.3213 Department of Agriculture

(a) *Foreign Agricultural Service.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS-15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Personnel Officer, Agricultural Research Service, or the Personnel Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM-301-14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

Section 213.3214 Department of Commerce

(a) *Bureau of the Census.* (1) (Reserved).

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS-5 through GS-12.

(3) Not to exceed 300 Community Awareness Specialist positions at the equivalent of GS-7 through GS-12. Employment under this authority may not exceed December 31, 1992. (b)-(c) (Reserved).

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS-11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor

(a) Chairman, two Members, and one Alternate Member, Administrative Review Board.

(b) (Reserved).

(c) *Bureau of International Labor Affairs.* (1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

Section 213.3217 Department of Education

(a) Seventy-five positions, not in excess of GS-13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS-7 through GS-11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the

prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

Section 213.3221 Corporation for National and Community Service

(a) Not to exceed 25 positions of Program Specialist at grades GS-9 through GS-15 in the Department of the Executive Director.

(b) Three positions of Program Specialist at grades GS-7 through GS-15 in the Department of the Executive Director.

Section 213.3227 Department of Veterans Affairs

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS-11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS-1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

Section 213.3228 U.S. Information Agency

(a) *Voice of America.* (1) Not to exceed 200 positions at grades GS-15 and below in the Cuba Service. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

Section 213.3236 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

Section 213.3240 National Archives and Records Administration

(a) Executive Director, National Historical Publications and Records Commission.

Section 213.3248 National Aeronautics and Space Administration

(a) Not to exceed 40 positions of Command Pilot, Pilot, and Mission Specialist candidates at grades GS-7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3264 U.S. Arms Control and Disarmament Agency

(a) Twenty-five scientific, professional, and technical positions at grades GS-12 through GS-15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3274 Smithsonian Institution

(a) (Reserved).

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS-9 through GS-15.

Section 213.3276 Appalachian Regional Commission

(a) Two Program Coordinators.

Section 213.3278 Armed Forces Retirement Home

(a) *Naval Home, Gulfport, Mississippi.*

(1) One Resource Management Officer position and one Public Works Officer position, GS/GM-15 and below.

Section 213.3282 National Foundation on the Arts and the Humanities

(a) (Reserved).

(b) *National Endowment for the Humanities.* (1) Professional positions at grades GS-11 through GS-15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require indepth knowledge of a discipline of the humanities.

Section 213.3285 Pennsylvania Avenue Development Corporation

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS-13 and GS-14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS-13 through 15, at the Federal Executive Institute. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1-, 2-, or 3-year increments indefinitely thereafter.

Schedule C**(Grades 5 Through 15)***Section 213.3303 Executive Office of the President*

Council of Economic Advisers

CEA 1 Secretary to the Chairman

CEA 4 Secretary to the Chairman

CEA 5 Secretary to a Council Member

CEA 6 Secretary to a Council Member

Council on Environmental Quality

CEQ 8 Special Assistant to the Chair

CEQ 9 Special Assistant to the Chair

for Outreach and Strategic Planning

CEQ 10 Special Assistant to the Chair,

Council on Environmental Quality

CEQ 11 Associate Director for
Communications to the Chair, Council
on Environmental Quality

Office of Management and Budget

OMB 80 Executive Assistant to the
Deputy DirectorOMB 92 Confidential Assistant to the
Associate Director for Legislative
Reference and AdministrationOMB 97 Confidential Assistant to the
Administrator, Office of Information
and Regulatory AffairsOMB 102 Special Assistant to the
DirectorOMB 107 Writer-Editor to the
Associate Director for
CommunicationsOMB 108 Staff Assistant to the
Executive Associate DirectorOMB 110 Confidential Assistant to the
Executive Associate DirectorOMB 115 Confidential Assistant to the
Associate Director for General
Government and FinanceOMB 117 Confidential Assistant to the
Associate Director, Health/PersonnelOMB 118 Special Assistant to the
ControllerOMB 119 Confidential Assistant to the
Associate Director, National Security
and International AffairsOMB 120 Confidential Assistant to the
Associate Director, for Natural
Resources, Energy and ScienceOMB 121 Staff Assistant to the
Director

Office of National Drug Control Policy

ONDCP 78 Staff Assistant to the Chief
of StaffONDCP 82 Legislative Analyst to the
Director, Office of Public Affairs and
Legislative AffairsONDCP 83 Director, Public Affairs to
the Director, Public and Legislative
AffairsONDCP 86 Confidential Assistant to
the DirectorONDCP 87 Confidential Secretary to
the Deputy DirectorONDCP 88 Writer-Editor to the
DirectorONDCP 90 Research Assistant to the
Director, Strategic PlanningONDCP 91 Executive Assistant to the
Chief of StaffONDCP 93 Staff Assistant to the
DirectorONDCP 95 Executive Assistant to the
Deputy DirectorONDCP 96 Events Assistant to the
DirectorONDCP 97 Events Manager to the
DirectorONDCP 98 Staff Assistant to the Chief
of StaffONDCP 99 Staff Assistant to the
DirectorONDCP 100 Press Relations Assistant
(Typing) to the Chief of Press
Relations, Office of Public Affairs

Office of Science and Technology Policy

OSTP 18 Special Assistant to the
DirectorOSTP 19 Executive Assistant for
Policy and Intergovernmental Affairs
to the DirectorOSTP 21 Confidential Assistant to the
Associate Director, Technology
DivisionOSTP 22 Confidential Assistant to the
Associate Director for Environment

OSTP 26 Chief of Staff to the Director

Office of the United States Trade
RepresentativeUSTR 56 Confidential Assistant to the
Deputy United States Trade
RepresentativeUSTR 62 Private Sector Liaison to the
Assistant United States Trade
Representative for Public LiaisonUSTR 63 Confidential Assistant to the
Chief of StaffUSTR 66 Congressional Affairs
Specialist to the Assistant United
States Trade Representative for
Congressional Affairs

Official Residence of the Vice President

ORVP 1 Special Assistant, Official
Residence of the Vice President to the
Chief of Staff to Mrs. GorePresident's Commission on White
House FellowshipsPCWHF 7 Education Director to the
Director, President's Commission on
White House FellowshipsPCWHF 10 Special Assistant to the
Director, Presidential Commission on
White House FellowshipsPCWHF 12 Special Assistant to the
Director, President's Commission on
White House Fellowships*Section 213.3304 Department of State*ST 220 Special Assistant to the
Assistant Secretary, Bureau of Public
AffairsST 221 Staff Assistant to the Deputy
Assistant Secretary, Bureau of
Legislative AffairsST 329 Staff Assistant to the Deputy
Secretary of StateST 330 Special Assistant to the Senior
Advisor to the Secretary and White
House LiaisonST 359 Legislative Officer to the Under
Secretary for ManagementST 374 Special Assistant to the United
States Permanent Representative to
the Organization of American States,
Bureau of Inter-American AffairsST 393 Legislative Management
Officer to the Deputy Assistant
Secretary, Bureau of Legislative
AffairsST 399 Confidential Assistant to the
Secretary of StateST 400 Deputy Assistant Secretary to
the Assistant Secretary, Economic and
Business AffairsST 402 Special Assistant to the Deputy
Assistant Secretary, Bureau of Inter-
American AffairsST 405 Supervisory Protocol Officer
(Visits) to the Foreign Affairs Officer
(Visits)ST 406 Secretary (Typing) to the
Assistant Secretary, Bureau of
Economic and Business AffairsST 411 Protocol Officer to the
Supervisory Protocol OfficerST 416 Protocol Officer (Visits) to the
Supervisory Protocol Officer for VisitsST 426 Secretary (Steno) to the
Assistant Secretary, Bureau of Human
Rights and Humanitarian AffairsST 429 Special Assistant to the
Director, Foreign Service InstituteST 433 Correspondence Officer to the
Assistant Secretary, Bureau of
Legislative AffairsST 445 Foreign Affairs Officer to the
Deputy Assistant Secretary for Public
Affairs/Chief SpeechwriterST 449 Special Assistant to the
Assistant Secretary, Bureau of
International Narcotics MattersST 451 Special Assistant to the
Ambassador-at-LargeST 460 Staff Assistant to the Chief of
StaffST 461 Senior Advisor to the Director,
Policy Planning StaffST 465 Special Assistant to the
Secretary of StateST 467 Foreign Affairs Officer to the
Deputy Chief of ProtocolST 468 Protocol Assistant to the
Foreign Affairs OfficerST 471 Special Assistant to the Legal
Advisor, Office of the Legal AdvisorST 475 Special Assistant to the Deputy
Assistant Secretary, Bureau for
International Narcotics and Law
Enforcement Affairs

- ST 478 Special Coordinator to the Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor
- ST 479 Resources, Plans and Policy Advisor to the Director, Plans and Policy
- ST 480 Legislative Management Officer to the Under Secretary, for Management
- ST 483 Foreign Affairs Officer to the Deputy Director, Office of Policy Planning
- ST 484 Legislative Management Officer to the Assistant Secretary
- ST 485 Member Policy Planning Staff to the Director
- ST 490 Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs
- ST 491 Policy Advisor to the Assistant Secretary, Bureau of European and Canadian Affairs
- ST 492 Senior Advisor to the Assistant Secretary, Bureau of South Asian Affairs
- ST 493 Resources, Plans and Policy Advisor to the Director, Office of Resources, Plans and Policy
- ST 494 Foreign-Affairs Officer to the Deputy Secretary of State
- ST 495 Senior Coordinator for Democracy Coordination to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor
- ST 497 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
- ST 498 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
- ST 499 Special Assistant to the Assistant Secretary, Bureau of Consular Affairs
- ST 500 Staff Assistant to the Special Coordinator for Cyprus
- ST 501 Special Assistant to the Chairman, International Joint Commission
- ST 502 Senior Advisor to the Deputy Assistant Secretary, Bureau for International Narcotics and Law Enforcement Affairs
- ST 507 Secretary (Typing) to the Legal Advisor
- ST 508 Deputy Assistant Secretary to the Assistant Secretary, Bureau of International Organizations Affairs
- ST 509 Deputy Assistant Secretary to the Assistant Secretary, Bureau of International Organization Affairs
- ST 510 Special Assistant to the Ambassador-at-Large
- ST 511 Special Assistant to the Legal Advisor
- ST 512 Special Assistant to the Deputy Director
- ST 513 Special Assistant to the Assistant Secretary, Bureau of Economic and Business Affairs
- ST 514 Protocol Specialist to the Chief of Protocol
- ST 516 Foreign Affairs Officer to the Deputy Director
- ST 517 Special Assistant to the Under Secretary for Economics, Business and Agricultural Affairs
- ST 518 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 519 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 520 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 521 Staff Assistant to the Chief of Staff, Office of the Secretary
- ST 522 Special Assistant to the Assistant Secretary, Bureau of African Affairs
- ST 523 Public Affairs Specialist to the Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor
- ST 524 Special Assistant to the Assistant Secretary, Bureau of African Affairs
- ST 525 Staff Assistant to the Deputy Assistant Secretary for Strategic Planning
- ST 526 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 527 Staff Assistant to the Deputy Assistant Secretary, Bureau of Administration
- ST 528 Foreign Affairs Officer to the Deputy Chief of Protocol
- ST 529 Senior Advisor to the Under Secretary for Economic, Business and Agricultural Affairs
- ST 530 Special Assistant to the Assistant Secretary, Bureau of Asian and Pacific Affairs
- ST 531 Staff Assistant to the Senior Advisor to the Secretary and White House Liaison
- ST 532 Protocol Assistant to the Deputy Chief of Protocol
- ST 533 Staff Assistant to the Ambassador-at-Large
- ST 534 Special Advisor to the Under Secretary for Economic, Business and Agricultural Affairs
- ST 535 Special Assistant to the Women's Coordinator
- International Boundary and Water Commission, United States and Mexico
- IBWC 1 Confidential Assistant (OA) to the Commissioner, United States Section, International Boundary and Water Commission, United States and Mexico
- Section 213.3305 Department of the Treasury*
- TREA 139 Director, Scheduling and Advance to the Chief of Staff
- TREA 170 Assistant Director, Travel and Special Events Services to the Director, Administrative Operations Division
- TREA 213 Special Assistant to the Assistant Secretary for Legislative Affairs and Public Liaison
- TREA 230 Public Affairs Specialist to the Senior Advisor and Director, Office of Public Affairs
- TREA 244 Administrative Assistant to the Director, Office of Thrift Supervision
- TREA 250 Senior Advisor and Director, Office of Public Affairs to the Deputy Assistant Secretary
- TREA 254 Deputy Executive Secretary for Policy Analysis to the Executive Secretary
- TREA 277 Public Affairs Specialist to the Assistant Secretary for Public Affairs
- TREA 284 Director, Office of Public and Business Liaison to the Deputy Assistant Secretary (Public Liaison)
- TREA 316 Public Affairs Specialist to the Director, Office of Public Affairs
- TREA 317 Public Affairs Specialist to the Director of Public Affairs
- TREA 318 Legislative Analyst to the Director, Office of Legislative Affairs
- TREA 334 Staff Assistant to the Under Secretary (Enforcement)
- TREA 336 Director, Administrative Operations Division to the Deputy Assistant Secretary (Administration)
- TREA 338 Deputy Director for Advance to the Director of Scheduling and Advance
- TREA 342 Deputy Treasurer of the United States to the Treasurer of the United States
- TREA 345 Policy Advisor to the Assistant Secretary (Enforcement)
- TREA 351 Public Affairs Specialist and Advisor to the Under Secretary for Enforcement to the Director, Office of Public Affairs
- TREA 356 Policy Advisor to the Deputy Under Secretary, Government Financial Policy
- TREA 357 Director, Office of Public Correspondence to the Executive Secretary
- TREA 364 Special Assistant to the Under Secretary for Domestic Finance
- TREA 368 Special Assistant to the Deputy Secretary of the Treasury
- TREA 372 Special Assistant to the Assistant Secretary (Financial Markets)
- TREA 373 Senior Advisor to the Under Secretary of International Affairs
- TREA 375 Senior Advisor, Public Affairs to the Director of the U.S. Mint

- TREA 378 Senior Advisor to the Assistant Secretary for Enforcement
- TREA 379 Special Assistant to the Chief of Staff
- TREA 380 Special Assistant to the Assistant Secretary (Legislative Affairs and Public Liaison)
- TREA 381 Legislative Analyst to the Director, Office of Legislative Affairs
- TREA 382 Staff Assistant to the Assistant Secretary (International Affairs)
- TREA 384 Staff Assistant to the Chief of Staff
- TREA 386 Enforcement Policy Advisor to the Director, Office of Policy Development/(Senior Advisor the Assistant Secretary (Enforcement))
- TREA 387 Enforcement Policy Advisor to the Director, Office of Policy Development (Senior Advisor to the Assistant Secretary (Enforcement))
- TREA 388 Confidential Staff Assistant to the Deputy Secretary of Treasury
- TREA 389 Economist to the Deputy Secretary of the Treasury
- TREA 391 Associate Director of Scheduling to the Director, Scheduling and Advance
- TREA 393 Attorney-Advisor to the General Counsel
- TREA 394 Executive Secretary to the Chief of Staff
- TREA 395 Deputy Executive Secretary for Policy Coordination to the Executive Secretary
- TREA 396 Director, Public and Business Liaison to the Deputy Assistant Secretary for Public Liaison
- TREA 397 Senior Deputy to the Assistant Secretary, Legislative Affairs and Public Liaison
- TREA 398 Senior Advisor to the Assistant Secretary Financial Markets
- TREA 399 Assistant to the Commissioner, Internal Revenue Service
- TREA 400 Special Assistant to the Assistant Secretary for Management and Chief Financial Officer
- Section 213.3306 Department of Defense*
- DOD 22 Personal and Confidential Assistant to the Assistant to the Secretary of Defense for Atomic Energy
- DOD 24 Chauffeur to the Secretary of Defense
- DOD 33 Personal Secretary to the Deputy Secretary of Defense
- DOD 75 Chauffeur to the Deputy Secretary of Defense
- DOD 101 Special Assistant to the Director of Net Assessment
- DOD 271 Private Secretary to the Assistant Secretary of Defense (Reserve Affairs)
- DOD 279 Personal and Confidential Assistant to the Director Operational Test and Evaluation
- DOD 295 Personal and Confidential Assistant to the Under Secretary of Defense for Personnel and Readiness
- DOD 300 Confidential Assistant to the Under Secretary (Acquisition and Technology)
- DOD 317 Confidential Assistant to the Director, Defense Research and Engineering
- DOD 319 Confidential Assistant to the Secretary of Defense
- DOD 321 Executive Assistant to the Assistant to the Vice President for National Security Affairs
- DOD 332 Personal and Confidential Assistant to the Assistant Secretary of Defense (Regional Security)
- DOD 339 Speechwriter to the Special Assistant to the Secretary of Defense for Public Affairs
- DOD 355 Special Assistant for Strategic Modernization to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 368 Personal and Confidential Assistant to the Assistant Secretary of Defense for Legislative Affairs
- DOD 380 Director of Protocol to the Chief of Staff
- DOD 386 Personal and Confidential Assistant to the Assistant Secretary of Defense for Reserve Affairs
- DOD 435 Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs
- DOD 439 Staff Specialist to the Under Secretary (Acquisition and Technology)
- DOD 440 Personal and Confidential Assistant to the Deputy Under Secretary of Defense for Acquisition Reform
- DOD 449 Staff Specialist to the Assistant to the Secretary of Defense for Public Affairs
- DOD 456 Special Assistant for Family Advocacy and External Affairs to the Deputy Assistant Secretary of Defense, (Prisoner of War/Missing in Action Affairs)
- DOD 457 Staff Assistant to the Deputy Assistant Secretary of Defense (Democracy and Human Rights)
- DOD 459 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
- DOD 464 Defense Fellow to the Deputy Under Secretary for Logistics
- DOD 468 Staff Specialist (International) to the Director, Defense Information Systems Agency
- DOD 471 Defense Fellow to the Deputy Assistant Secretary of Defense (European and NATO Affairs)
- DOD 473 Personal and Confidential Assistant to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict
- DOD 474 Program Analyst to the Deputy Under Secretary (Environmental Security)
- DOD 479 Special Assistant to the Assistant to the Secretary of Defense (Legislative Affairs)
- DOD 480 Executive Assistant to the Assistant Secretary of Defense (Strategy Requirements and Resources)
- DOD 488 Personal and Confidential Assistant to the Under Secretary of Defense (Comptroller)
- DOD 494 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 500 Staff Specialist to the Special Assistant for White House Liaison
- DOD 501 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
- DOD 504 Assistant for Antiterrorism Policy and Programs to the Deputy Assistant Secretary of Defense (Policy and Missions)
- DOD 508 Defense Fellow to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 510 Staff Specialist to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 512 Staff Specialist to the Deputy Under Secretary of Defense for International and Commercial Programs
- DOD 516 Staff Specialist to the Deputy Under Secretary of Defense for Environmental Security
- DOD 519 Private Secretary to the Assistant Secretary of Defense (Regional Security Affairs)
- DOD 534 Confidential Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
- DOD 535 Special Assistant to the Deputy to the Under Secretary of Defense for Policy Support
- DOD 545 Public Affairs Specialist to the Assistant to the Secretary of Defense (Public Affairs)
- DOD 552 Special Assistant to the Assistant Secretary of Defense for Special Operations/Low Intensity Conflict
- DOD 555 Confidential Assistant to the General Counsel, Department of Defense
- DOD 557 Defense Fellow to the Deputy Assistant Secretary of Defense, Humanitarian and Refugee Affairs
- DOD 558 Special Assistant to the Director, Program Analysis and Evaluation
- DOD 559 Confidential Assistant to the Assistant Secretary of Defense, Force Management Policy

- DOD 562 Defense Fellow to the Assistant Secretary of Defense (International Security Affairs)
- DOD 564 Program Analyst to the Deputy Under Secretary (Environmental Secretary)
- DOD 566 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense for Policy
- DOD 570 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense (Acquisition and Technology)
- DOD 571 Secretary (OA) to the Inspector General
- DOD 572 Special Assistant to the Inspector General
- DOD 577 Staff Specialist to the Principal Deputy Assistant Secretary of Defense (Legislative Affairs)
- DOD 578 Personal and Confidential Assistant to the Under Secretary of Defense (Policy)
- DOD 580 Defense Fellow to the Deputy Assistant Secretary of Defense, African Affairs
- DOD 581 Associate Director Communications to the Senior Director, Communications, National Security Council
- DOD 582 Foreign Affairs Specialist to the Deputy Assistant Secretary of Defense for Peacekeeping and Humanitarian Assistance
- DOD 583 Speechwriter to the Assistant to the Secretary of Defense for Public Affairs
- DOD 586 Personal and Confidential Assistant to the General Counsel
- DOD 588 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
- DOD 592 Program Analyst to the Deputy Assistant Secretary of Defense, Policy and Missions
- DOD 595 Confidential Assistant to the Assistant to the Secretary for Public Affairs
- DOD 597 Staff Specialist to the Deputy Under Secretary for Logistics
- DOD 600 Office Director and Special Coordinator for Cooperative Threat Reduction to the Deputy Assistant Secretary of Defense for Threat Reduction Policy
- DOD 601 Staff Assistant to the Special Assistant for White House Liaison
- DOD 604 Special Assistant for Outreach to the Deputy Under Secretary of Defense (Environmental Security)
- DOD 605 Defense Fellow to the Special Assistant for White House Liaison
- DOD 606 Defense Fellow to the Deputy Assistant Secretary Defense, (Drug Enforcement Policy and Support)
- DOD 607 Staff Specialist to the Assistant to the President/Director, White House Office for Women's Initiative and Outreach, Office of the Secretary
- DOD 609 Private Secretary to the Deputy Secretary of Defense
- DOD 610 Special Assistant to the Assistant Secretary for Health Affairs
- DOD 611 Personal and Confidential Assistant to the Secretary of Defense
- DOD 612 Protocol Officer to the Director of Protocol
- DOD 613 Staff Assistant to the Secretary of Defense
- DOD 614 Staff Assistant to the Chief of Staff to President
- DOD 615 Special Assistant to the Deputy Under Secretary of Defense (Industrial Affairs and Installation)
- DOD 616 Protocol Specialist to the Special Assistant to the Secretary of Defense
- DOD 617 Staff Specialist to the Director, NATO Policy
- DOD 618 Defense Fellows to the Special Assistant for White House Liaison
- DOD 619 Defense Fellow to the Special Assistant for White House Liaison
- DOD 620 Defense Fellow to the Special Assistant for White House Liaison
- DOD 621 Defense Fellow to the Special Assistant for White House Liaison
- DOD 623 Defense Fellow to the Special Assistant for White House Liaison
- DOD 624 Defense Fellow to the Special Assistant for White House Liaison
- DOD 625 Defense Fellow to the Special Assistant for White House Liaison
- DOD 627 International Counterdrug Specialist to the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support)
- DOD 628 Defense Fellow to the Special Assistant for White House Liaison
- DOD 629 Special Assistant to the Assistant Secretary, International Security Policy
- DOD 630 Confidential Assistant to the Deputy Secretary of Defense
- DOD 631 Staff Specialist to the Director, NATO Policy
- DOD 632 Director for Community Relations and Communications Strategy to the Assistant Secretary for Public Relations
- DOD 634 Special Assistant to the Assistant Secretary of Defense for Legislative Affairs
- DOD 635 Director of Public Services to the Assistant Secretary of Defense (Reserve Affairs)
- DOD 636 Civilian Executive Assistant to the Chairman, Joint Chiefs of Staff
- DOD 637 Special Assistant for Health Affairs to the Assistant Secretary for Legislative Affairs
- DOD 638 Speechwriter to the Assistant Secretary for Public Affairs
- DOD 639 Staff Specialist to the Deputy Assistant Secretary of Defense, (European and NATO Affairs)
- DOD 640 Staff Specialist to the Assistant Secretary (Strategy and Threat Reduction)
- DOD 641 Staff Specialist to the Deputy Assistant Secretary (Asian and Pacific Affairs)
- DOD 642 Special Assistant to the Project Director, National Partnership for Reinventing Government
- DOD 643 Staff Specialist to the Under Secretary for Acquisition and Technology
- DOD 644 Special Assistant for Health Care Policy to the Assistant Secretary for Legislative Affairs
- DOD 645 Public Affairs Specialist to the Principal Deputy Assistant Secretary of Defense for Public Affairs
- DOD 646 Defense Fellow to the Special Assistant for White House Liaison
- Section 213.3307 Department of the Army (DOD)*
- ARMY 2 Personal and Confidential Assistant to the Under Secretary of the Army
- ARMY 5 Secretary (Stenography/Office Automation) to the Assistant Secretary of the Army (Installations, Logistics and Environment)
- ARMY 6 Secretary (Office Automation) to the Assistant Secretary of the Army (Research, Development and Acquisition)
- ARMY 17 Secretary (Office Automation) to the Assistant Secretary of the Army (Civil Works)
- ARMY 21 Secretary (Steno/OA) to the General Counsel
- ARMY 55 Secretary (Office Automation) to the Assistant Secretary of the Army (Financial Management)
- ARMY 73 Staff Assistant for Policy to the Secretary of the Army
- ARMY 75 Special Assistant (Civilian Aide Program) to the Executive Staff Assistant, Office of the Secretary of the Army
- ARMY 76 Special Assistant to the Assistant Secretary, Research Development and Acquisition
- Section 213.3308 Department of the Navy (DOD)*
- NAV 49 Staff Assistant to the Under Secretary of the Navy
- NAV 56 Staff Assistant to the Assistant Secretary of the Navy (Financial Management)

NAV 57 Staff Assistant to the Secretary of the Navy
 NAV 59 Staff Assistant to the Assistant Secretary of Navy (Manpower and Reserve Affairs)
 NAV 60 Staff Assistant to the Assistant Secretary of Navy (Research, Development and Acquisition)
 NAV 61 Special Assistant to the Principal Deputy Secretary of the Navy (Manpower and Reserve Affairs)
 NAV 62 Attorney Advisor to the Principal Deputy General Counsel
 NAV 63 Staff Assistant to the Secretary of the Navy
 NAV 64 Staff Assistant to the Under Secretary of the Navy

Section 213.3309 Department of the Air Force (DOD)

AF 2 Secretary Assistant to the Under Secretary of the Air Force
 AF 5 Secretary (Steno) to the Assistant Secretary Acquisition
 AF 6 Secretary (Steno) to the Assistant Secretary (Manpower and Reserve Affairs, Installation and Environment)
 AF 8 Secretary (Steno/OA) to the General Counsel of the Air Force
 AF 22 Secretary (Stenography/OA) to the Assistant to the Vice President for National Security Affairs
 AF 31 Staff Assistant to the Assistant to the Vice President for National Security Affairs
 AF 39 Secretary (OA) to the Assistant Secretary of the Air Force (Financial Management and Comptroller)
 AF 42 Staff Assistant to the Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations and Environment).
 AF 43 Special Advisor for International Affairs to the Assistant to the Vice President for National Security Affairs

Section 213.3310 Department of Justice

JUS 25 Confidential Assistant to the Assistant Attorney General, Criminal Division
 JUS 38 Secretary (OA) to the United States Attorney, Northern District of Illinois
 JUS 40 Secretary (OA) to the United States Attorney, Eastern District of Michigan
 JUS 47 Secretary (OA) to the United States Attorney, Western District of New York
 JUS 75 Secretary (OA) to the United States Attorney, Northern District of Texas
 JUS 83 Staff Assistant to the Assistant to the Attorney General (Chief Scheduler)
 JUS 97 Assistant to the Attorney General

JUS 104 Special Assistant to the Assistant Attorney General
 JUS 114 Staff Assistant to the Attorney General
 JUS 122 Public Affairs Specialist to the Director, Public Affairs
 JUS 128 Secretary (OA) to the United States Attorney, District of Arizona
 JUS 13 Special Assistant to the Commissioner, Immigration and Naturalization Service
 JUS 137 Assistant to the Commissioner
 JUS 140 Attorney Advisor to the Assistant Attorney General
 JUS 144 Special Assistant to the Solicitor General
 JUS 148 Special Assistant to the Chairman, United States Postal Commission
 JUS 150 Special Assistant to the Assistant Attorney General, Environment and Natural Resources Division
 JUS 169 Secretary (OA) to the United States Attorney, Middle District of Florida
 JUS 170 Assistant to the Attorney General
 JUS 173 Secretary (OA) to the United States Attorney, Western District of Louisiana
 JUS 184 Special Assistant to the Deputy Attorney General
 JUS 207 Staff Assistant to the Director, Office of Public Affairs
 JUS 208 Staff Assistant to the Director, Office of Public Affairs
 JUS 209 Confidential Assistant to the Assistant Attorney General for Civil Rights Division
 JUS 217 Special Assistant to the Director, Bureau of Justice Assistance
 JUS 233 Special Assistant to the Assistant Attorney General, Civil Rights Division
 JUS 235 Public Affairs Specialist to the Director of Public Affairs
 JUS 247 Special Assistant to the Commissioner, Immigration and Naturalization Service
 JUS 248 Deputy Director to the Director, Violence Against Women Office
 JUS 255 Counsel to the Assistant Attorney General, Civil Rights Division
 JUS 264 Confidential Assistant to the Assistant Attorney General
 JUS 266 Director, Special Projects to the Director, Office of Public Affairs
 JUS 267 Counsel to the Assistant Attorney General to the Assistant Attorney General
 JUS 268 Litigation Counsel to the Assistant Attorney General
 JUS 270 Special Assistant to the Assistant Attorney General, Civil Rights Division

JUS 273 Program Manager, Violence Against Women Office to the Director, Violence Against Women Office
 JUS 279 Deputy Director, Office Intergovernmental Affairs to the Deputy Attorney General
 JUS 282 Special Assistant to the Assistant Attorney General, Office of Policy Development
 JUS 293 Special Assistant to the Deputy Attorney General
 JUS 299 Public Affairs Assistant to the Director, Office of Public Affairs
 JUS 312 Senior Counsel to the Assistant Attorney General
 JUS 323 Chief of Staff to the Assistant Attorney General, Office of Justice Programs
 JUS 330 Attorney to the Deputy Director, Office of Intergovernmental Affairs
 JUS 344 Counsel to the Attorney General to the Attorney General
 JUS 357 Confidential Assistant to the Deputy Attorney General
 JUS 360 Deputy Assistant Attorney General to the Assistant Attorney General, Office of Policy Development
 JUS 361 Special Assistant to the Administrator to the Director, Bureau of Justice Statistics
 JUS 383 Assistant to the Attorney General
 JUS 387 Deputy Director, Office of Public Affairs to the Director, Office of Public Affairs
 JUS 401 Counsel to the Deputy Attorney General
 JUS 404 Assistant to the Attorney General to the Attorney General
 JUS 418 Secretary (OA) to the U.S. Attorney, District of Nebraska
 JUS 419 Public Affairs Specialist to the United States Attorney, Northern District of Florida
 JUS 420 Confidential Assistant to the United States Attorney, Eastern District of Pennsylvania
 JUS 421 Special Assistant to the Special Representatives to the United States Attorney, Southern District of California
 JUS 422 Secretary (OA) to the United States Attorney, Eastern District of Wisconsin
 JUS 423 Secretary to the United States Attorney, District of New Mexico
 JUS 424 Secretary to the United States Attorney, Northern District of Iowa
 JUS 425 Secretary (OA) to the United States Attorney, Middle District of Pennsylvania
 JUS 426 Secretary (OA) to the United States Attorney, Sioux Falls, South Dakota
 JUS 427 Secretary (OA) to the United States Attorney, District of New Hampshire
 JUS 428 Secretary (OA) to the United States Attorney, District of Minnesota

JUS 431 Secretary (OA) to the United States Attorney, District of Oregon, Portland, OR

JUS 433 Secretary (OA) to the United States Attorney, Middle District of Louisiana

JUS 435 Secretary (OA) to the United States Attorney, Western District of Arkansas

JUS 436 Secretary (OA) to the United States Attorney, Middle District of Alabama

JUS 437 Secretary (OA) to the United States Attorney, District of Delaware

JUS 445 Special Assistant to the Director, Community Relations Service

JUS 446 Senior Advisor to the Director, Community Oriented Policing Services

JUS 447 Special Assistant to the Director, Violence Against Women Program Officer

Section 213.3312 Department of the Interior

INT 171 Special Assistant to the Director of Communication

INT 172 Special Assistant to the Commissioner of Reclamation

INT 375 Special Assistant to the Secretary and White House Liaison to the Chief of Staff

INT 378 Special Assistant to the Director, Office of the Surface Mining

INT 426 Press Secretary to the Director of Communications

INT 442 Special Assistant to the Director, National Parks Service

INT 450 Special Assistant to the Director, United States Fish & Wildlife Service

INT 451 Deputy Director, Office of Insular Affairs to the Director, Office of Insular Affairs

INT 455 Special Assistant to the Deputy Assistant Secretary for Fish, Wildlife and Parks

INT 460 Director of Scheduling to the Deputy Chief of Staff

INT 463 Special Assistant to the Director of the National Park Service

INT 467 Special Assistant to the Chief of Staff

INT 468 Special Assistant to the Chief of Staff

INT 474 Special Assistant to the Commissioner of Reclamation

INT 476 Special Assistant to the Director, Bureau of Land Management

INT 479 Special Assistant to the Associate Director for Policy and Management Improvement

INT 486 Special Assistant (Speech Writer) to the Director, Office of Communications

INT 490 Special Assistant (Advance) to the Deputy Chief of Staff

INT 493 Special Assistant to the Secretary and Director of Executive Secretariat to the Deputy Chief of Staff

INT 497 Special Assistant to the Deputy Chief of Staff

INT 500 Special Assistant to the Secretary of the Interior

INT 502 Special Assistant to the Assistant Secretary for Policy, Management and Budget

INT 503 Special Assistant to the Director, Fish and Wildlife Service

INT 504 Special Assistant to the Director of the Bureau of Land Management

INT 505 Special Assistant to the Director, National Park Service

INT 506 Special Assistant to the Solicitor

INT 508 Special Assistant to the Deputy Assistant Secretary for Policy and International Affairs

INT 509 Special Assistant to the Director, National Park Service

INT 511 Special Assistant to the Deputy Chief of Staff

INT 512 Staff Assistant to the Director, Office of Surface of Mining

INT 513 Special Assistant to the Director, Office of Surface Mining

INT 514 Special Assistant to the Director, Bureau of Land Mines

INT 515 Special Assistant to the Chief of Staff

INT 516 Special Assistant to the Chief Biologist

INT 518 Special Assistant to the Deputy Director, Bureau Land Management

INT 519 Special Assistant to the Assistant Director for External Affairs, U.S. Fish and Wildlife Service

INT 520 Deputy Scheduler to the Deputy Chief of Staff, Office of the Secretary

INT 521 Special Assistant and Counselor to the Assistant Secretary for Indian Affairs

INT 522 Special Assistant to the Assistant Secretary for Land and Minerals Management

INT 523 Special Assistant to the Director, Congressional and Legislative Affairs

INT 524 Special Assistant to the Director, Bureau of Land Management

INT 525 Communications Director to the Assistant Secretary for Indian Affairs

INT 526 Special Assistant to the Director, Office of Communications

Section 213.3313 Department of Agriculture

AGR 3 Confidential Assistant to the Executive Assistant to the Secretary

AGR 5 Staff Assistant to the Administrator, Federal Agricultural Service

AGR 19 Confidential Assistant to the Administrator, Rural Utilities Services

AGR 26 Confidential Assistant to the Administrator, Farmers Home Administration

AGR 31 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service

AGR 32 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service

AGR 33 Confidential Assistant to the Administrator, Consolidated Farm Service Agency

AGR 34 Special Assistant to the Administrator, Agricultural Stabilization Conservation Service

AGR 35 Staff Assistant to the Administrator, Federal Service Agency

AGR 48 Special Assistant to the Administrator, Food and Consumer Service

AGR 49 Confidential Assistant to the Administrator, Rural Housing Service

AGR 56 Private Secretary to the Assistant Secretary for Congressional Relations

AGR 64 Confidential Assistant to the Director, Office of Communications, Rural Development

AGR 77 Director, Intergovernmental Affairs to the Assistant Secretary for Congressional Relations

AGR 79 Confidential Assistant to the Administrator, Farmers Home Administration

AGR 81 Confidential Assistant to the Administrator, Rural Housing Service

AGR 100 Special Assistant for Nutrition Education to the Administrator, Food and Consumer Service

AGR 103 Confidential Assistant to the Administrator of the Foreign Agricultural Service

AGR 114 Confidential Assistant to the Assistant Secretary for Congressional Relations

AGR 121 Deputy Press Secretary to the Director, Office of Communications

AGR 131 Private Secretary to the Under Secretary for Natural Resources and Environment

AGR 151 Associate Administrator to the Administrator, Agricultural Marketing Service

AGR 157 Director, Legislative Affairs Staff to the Administrator, Foreign Agricultural Service

AGR 159 Special Assistant to the Administrator, Foreign Agricultural Service

AGR 160 Confidential Assistant to the Associate Administrator, Foreign Agricultural Service

AGR 161 Special Assistant to the Director, Office of Public Affairs

- AGR 162 Confidential Assistant to the Administrator, Agricultural Marketing Service
- AGR 163 Confidential Assistant to the Special Assistant to the Secretary
- AGR 175 Speech Writer to the Director, Office of Communications
- AGR 184 Staff Assistant to the Chief of Staff
- AGR 186 Special Assistant to the Secretary of Agriculture
- AGR 187 Special Assistant to the Administrator for Food and Consumer Service
- AGR 188 Northeast Area Director to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service
- AGR 190 Area Director, Midwest Region to the Administrator, Agricultural Stabilization and Conservation Service
- AGR 192 Area Director, South West Area to the Administrator, Farm Service Agency
- AGR 196 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 205 Confidential Assistant to the Administrator, Food and Nutrition Service
- AGR 224 Chief of Staff to the Administrator, Risk Management Agency
- AGR 232 Confidential Assistant to the Deputy Under Secretary for Operations and Management
- AGR 236 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
- AGR 238 Confidential Assistant to the Assistant Secretary for Congressional Relations
- AGR 258 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 259 Special Assistant to the Administrator, Agricultural Marketing Service
- AGR 263 Special Assistant to the Chief, Natural Resources Conservation Service
- AGR 267 Confidential Assistant to the Director, Office of Communications
- AGR 268 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 270 Director, Office of the Executive Secretariat to the Secretary of Agriculture
- AGR 281 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 282 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 285 Confidential Assistant to the Executive Assistant to the Secretary
- AGR 286 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 290 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
- AGR 293 Special Assistant to the Administrator, Foreign Agricultural Service
- AGR 294 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
- AGR 295 Confidential Assistant to the Assistant Secretary for Congressional Relations
- AGR 300 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 301 Confidential Assistant to the Administrator, Food, Nutrition and Consumer Service
- AGR 303 Staff Assistant to the Chief, Natural Resources Conservation Service
- AGR 311 Confidential Assistant to the Administrator, Agricultural Research Service
- AGR 312 Executive Assistant to the Administrator, Rural Housing Service
- AGR 318 Staff Assistant to the Administrator, Foreign Agricultural Service
- AGR 324 Confidential Assistant to the Under Secretary for Rural Development
- AGR 332 Confidential Assistant to the Administrator, Farmers Home Administration
- AGR 336 Confidential Assistant to the Secretary of Agriculture
- AGR 339 Confidential Assistant to the Administrator, Food and Nutrition Service
- AGR 341 Confidential Assistant to the Manager
- AGR 346 Confidential Assistant to the Administrator, Farmers Home Administration
- AGR 347 Confidential Assistant to the Director, Office of Communications
- AGR 348 Director for Public Outreach to the Director, Office of Communications
- AGR 352 Confidential Assistant to the Administrator, Food and Nutrition Service
- AGR 355 Speech Writer to the Director, Office of Communications
- AGR 361 Confidential Assistant to the Under Secretary for Research, Education and Economics
- AGR 365 Director, Native American Programs to the Assistant Secretary for Congressional Relations
- AGR 366 Deputy Administrator, Food Stamp Program to the Administrator, Food and Nutrition Service
- AGR 368 Confidential Assistant to the Manager, Federal Crop Insurance Corporation
- AGR 370 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
- AGR 371 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
- AGR 377 Confidential Assistant to the Deputy Administrator, Rural Business Service
- AGR 378 Deputy Press Secretary to the Director, Office of Communications
- AGR 384 Confidential Assistant to the Secretary of Agriculture
- AGR 386 Special Assistant to the Director, Empowerment Zone/Enterprise Community
- AGR 393 Confidential Assistant to the Administrator, Rural Development Administration
- AGR 402 Confidential Assistant to the Director, Office of Communications
- AGR 404 Confidential Assistant to the Director of Personnel
- AGR 405 Staff Assistant to the Deputy Chief of Staff
- AGR 413 Special Assistant to the Chief of Natural Resources Conservation Service
- AGR 415 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 417 Confidential Assistant to the Administrator, Agricultural Marketing Service
- AGR 418 Confidential Assistant to the Chief, Natural Resources Conservation Service
- AGR 422 Special Assistant to the Administrator, Farm Service Agency
- AGR 426 Deputy Director, Special Projects to the Director, Office of Communications
- AGR 427 Confidential Assistant to the Deputy Secretary
- AGR 428 Confidential Assistant to the Administrator, Rural Business and Cooperative Development Service
- AGR 429 Confidential Assistant to the Director, Office of Civil Rights Enforcement
- AGR 433 Confidential Assistant to the Administrator, Agricultural and Conservation Service
- AGR 435 Confidential Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
- AGR 436 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 438 Confidential Assistant to the Chief, Natural Resources Conservation Service
- AGR 440 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 444 Confidential Assistant to the Administrator, Food and Safety Inspection Service
- AGR 446 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
- AGR 448 Confidential Assistant to the Deputy Administrator for Community Development, Rural Business Service

- AGR 450 Confidential Assistant to the Administrator, Agricultural Research Service
- AGR 451 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 452 Confidential Assistant to the Director, Office of Communications
- AGR 455 Director, Community Outreach Division to the Deputy Administrator, Community Development
- AGR 456 Special Assistant to the Administrator, Rural Development/Rural Housing Service
- AGR 458 Confidential Assistant to the Deputy Administrator for Community Development, Rural Business Service
- AGR 459 Confidential Assistant to the Administrator, Farm Agency Service
- AGR 461 Special Assistant to the Chief, Forest Service
- AGR 462 Special Assistant to the Director, Empowerment Zone/Enterprise Community
- AGR 465 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 467 Staff Assistant to the Assistant Secretary for Administration
- AGR 470 Staff Assistant to the Assistant Deputy Chief of Staff
- AGR 471 Confidential Assistant to the Administrator, Agricultural Marketing Service
- AGR 473 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 474 Confidential Assistant to the Deputy Administrator for Special Nutrition Programs, Food Consumer Service
- AGR 475 Confidential Assistant to the Administrator, Animal and Plant Inspection Service
- AGR 477 Special Assistant to the Associate Administrator, Rural Business Service
- AGR 478 Confidential Assistant to the Director, Tobacco and Peanuts Division, Farm Service Agency
- AGR 479 Special Assistant to the Administrator, Risk Management Agency
- AGR 480 Special Assistant to the Administrator, Cooperative State Research, Education and Extension Service
- AGR 481 Staff Assistant to the Deputy Administrator, Community Development
- AGR 482 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 483 Confidential Assistant to the Administrator, Rural Business Service
- AGR 484 Special Assistant to the Administrator, Food and Inspection Service
- AGR 485 Special Assistant to the Administrator, Food and Inspection Service
- AGR 486 Deputy Press Secretary to the Director, Office of Communications
- AGR 487 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 488 Confidential Assistant to the Administrator, Economic Research Service
- AGR 489 Confidential Assistant to the Chief Financial Officer
- AGR 492 Confidential Assistant to the Administrator, Risk Management Agency
- AGR 493 Special Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
- Section 213.3314 Department of Commerce*
- COM 3 Senior Advisor to the Chief of Staff
- COM 12 Special Assistant to the Deputy Secretary
- COM 16 Executive Assistant to the General Counsel
- COM 17 Special Assistant to the General Counsel
- COM 70 Director, Office of Communications and Congressional Liaison to the Assistant Secretary for Economic Development, Economic Development Administration
- COM 162 Special Assistant to the Assistant Secretary for International Economic Policy, International Trade Administration
- COM 165 Director, Office of Business Liaison to the Secretary of Commerce
- COM 181 Special Assistant to the Assistant Secretary for Communications and Information
- COM 189 Special Assistant to the Assistant Secretary for National Communications and Information Administration
- COM 190 Director, Office of Congressional Affairs to the Assistant Secretary for Communication and Information
- COM 194 Special Assistant to the Under Secretary, National Oceanic and Atmospheric Administration
- COM 202 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 204 Special Assistant to the Chief Scientist, National Oceanic and Atmospheric Administration
- COM 217 Special Assistant to the Director, Office of Public Affairs
- COM 224 Senior Advisor to the Undersecretary for International Trade
- COM 237 Special Assistant to the Under Secretary for International Trade
- COM 259 Director of Congressional Affairs to the Under Secretary for International Trade
- COM 277 Special Assistant to the Director of Public Affairs
- COM 284 Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs, Office of Legislative and Intergovernmental Affairs
- COM 289 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 292 Special Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 298 Special Assistant to the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration
- COM 308 Special Assistant to the Assistant Secretary for Trade Development
- COM 312 Special Assistant to the Director General of the U.S. and Foreign Commercial Service
- COM 326 Confidential Assistant to the Assistant Secretary and Director General, U.S. and Foreign Commercial Service
- COM 327 Special Assistant to the Deputy Secretary of Commerce
- COM 335 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 342 Special Assistant to the Director of White House Liaison
- COM 345 Director of Public Affairs to the Under Secretary for International Trade Administration
- COM 350 Deputy Director, Office of Business Liaison to the Director, Office of Business Liaison
- COM 365 Special Assistant to the Director, Minority Business Development Agency
- COM 379 Special Assistant to the General Counsel
- COM 390 Confidential Assistant to the Under Secretary for Economic Affairs/Administration
- COM 393 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 394 Deputy Director to the Director, Office of Public Affairs
- COM 397 Congressional Affairs Officer to the Assistant Director for Commerce
- COM 416 Director, Office of Consumer Affairs to the Secretary of Commerce
- COM 420 Special Assistant to the Director General of the United States and Foreign Commercial Service, International Trade Administration
- COM 423 Director of Congressional Affairs to the Assistant Secretary and Commissioner, Patent and Trademark Office
- COM 437 Senior Advisor to the Director, Office of Business Liaison

- COM 438 Confidential Assistant to the Director, Office of Business Liaison
- COM 447 Confidential Assistant to the Chief of Staff
- COM 462 Director of Congressional Affairs to the Assistant Secretary and Commissioner of Patent and Trademarks
- COM 467 Confidential Assistant to the Director, Office of External Affairs
- COM 468 Special Assistant to the Under Secretary for Export Administration
- COM 486 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 502 Deputy Director of Advance to the Director of Advance, Office of External Affairs
- COM 527 Executive Assistant to the Secretary of Commerce
- COM 530 Special Assistant to the Under Secretary for Technology, Technology Administration
- COM 538 Special Assistant to the Deputy Chief of Staff
- COM 543 Confidential Assistant to the Director, Office of Public Affairs, International Trade Administration
- COM 549 Special Assistant to the Deputy Under Secretary Economic Affairs
- COM 560 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 561 Special Assistant to the Assistant Secretary and Commissioner, Patent and Trademark Office
- COM 563 Deputy Director of Scheduling to the Deputy Director of External Affairs and Director of Scheduling
- COM 570 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 579 Director of Legislative, Intergovernmental and Public Affairs to the Under Secretary, Bureau of Export Administration
- COM 583 Special Assistant to the Chief of Staff
- COM 585 Chief, Intergovernmental Affairs to the Director, Office of Sustainable Development and Intergovernmental Affairs
- COM 592 Special Assistant to the Assistant Secretary Trade Administration
- COM 601 Director, Office of Public Affairs to the Under Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration
- COM 604 Assistant Director for Communications to the Director, Bureau of the Census
- COM 607 Intergovernmental Affairs Specialist to the Chief
- Intergovernmental Affairs, Office of Sustainable Development and Intergovernmental Affairs (NOAA)
- COM 612 Special Assistant to the Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration
- COM 613 Executive Assistant to the Deputy Secretary of Commerce
- COM 618 Confidential Assistant to the Director, Secretariat Staff
- COM 622 Confidential Assistant to the Assistant Secretary for Economic Development Administration
- COM 625 Special Assistant to the Deputy Assistant Secretary for Technology Policy
- COM 631 Special Advisor to the Director, Oceanic and Atmospheric Administrator
- COM 644 Special Assistant to the Director, Office of Sustainable Development and Intergovernmental Affairs
- COM 645 Special Assistant to the Director, Legislative, Intergovernmental and Public Affairs
- COM 648 Confidential Assistant to the Assistant Secretary, Office of Vocational and Adult Education.
- COM 651 Confidential Assistant to the Director for Communications and Press Secretary
- COM 659 Director, Office of White House Liaison to the Deputy Chief of Staff
- COM 664 Special Assistant to the Deputy Assistant Secretary for the U.S. and Foreign Commercial Service
- COM 666 Confidential Assistant to the Director, Office of Legislative Affairs
- COM 668 Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods to the Assistant Secretary for Trade Development
- COM 672 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 680 Deputy Press Secretary-Agency Coordination to the Director for Communications and Press Secretary
- COM 682 Associate Under Secretary for Economic Affairs to the Under Secretary for Economic Affairs
- COM 683 Senior Advisor to the Assistant Secretary for Import Administration
- COM 685 Deputy Assistant Secretary for Policy and Planning to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 686 Director of Advance to the Deputy Chief of Staff for External Affairs
- COM 687 Policy Advisor and Counsel to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 689 Confidential Assistant to the Deputy Chief of Staff for External Affairs
- COM 690 Special Assistant to the Deputy Assistant Secretary for Agreements Compliance
- COM 691 Director of Planning and Scheduling to the Deputy Chief of Staff for External Affairs
- COM 692 Director, Secretariat for Electronic Commerce to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 693 Senior Advisor to the Director, Office of Sustainable Development and Intergovernmental Affairs
- Section 213.3315 Department of Labor*
- LAB 17 Director of Intergovernmental Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs
- LAB 35 Special Assistant to the Director, Director, Women's Bureau
- LAB 41 Chief of Staff to the Assistant Secretary for Office of Congressional and Intergovernmental Affairs
- LAB 45 Executive Assistant to the Assistant Secretary for Occupational Safety and Health Standards
- LAB 66 Executive Assistant to the Deputy Assistant Secretary, Office of Federal Contracts Compliance Programs, Employment Standards Administration
- LAB 83 Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration
- LAB 87 Staff Assistant to the Assistant Secretary for Employment Standards, Employment Standards Administration
- LAB 92 Senior Advisor to the Secretary of Labor
- LAB 93 Special Assistant to the Secretary to the Secretary of Labor
- LAB 101 Special Assistant to the Administrator Wage and Hour Division, Employment Standards Administration
- LAB 103 Secretary's Representative, Boston, MA to the Associate Director, Intergovernmental Affairs
- LAB 104 Secretary's Representative to the Associate Director, Intergovernmental Affairs
- LAB 105 Secretary's Representative, Philadelphia, PA to the Associate Director, Office of Congressional and Intergovernmental Affairs
- LAB 106 Secretary's Representative, Atlanta, GA to the Director, Intergovernmental Affairs

- LAB 107 Secretary's Representative
Chicago, Ill to the Associate Director,
Intergovernmental Affairs
- LAB 109 Secretary's Representative to
the Associate Director
- LAB 110 Secretary's Representative to
the Associate Director, Congressional
and Intergovernmental Affairs
- LAB 111 Secretary's Representative to
the Associate Director, Office of
Congressional and Intergovernmental
Affairs
- LAB 112 Secretary's Representative,
Seattle, WA to the Director, Office of
Intergovernmental Affairs
- LAB 123 Special Assistant to the
Deputy Assistant Secretary for Policy
- LAB 125 Special Assistant to the
Assistant Secretary, Employment
Standards Administration
- LAB 126 Special Assistant for Public
Affairs to the Assistant Secretary
Employment Standards
Administration
- LAB 129 Press Secretary to the
Assistant Secretary for Occupational
Safety and Health, Occupational
Safety And Health Administration
- LAB 130 Special Assistant to the
Executive Secretary
- LAB 132 Associate Director for
Congressional Affairs to the Assistant
Secretary for Congressional and
Intergovernmental Affairs
- LAB 137 Press Secretary to the
Assistant Secretary for Public Affairs
- LAB 139 Special Assistant to the Wage
Hour Administrator
- LAB 143 Special Assistant to the
Assistant Secretary for Employment
and Training
- LAB 145 Intergovernmental Officer to
the Associate Director
Intergovernmental Affairs
- LAB 147 Attorney-Advisor (Labor)
(Counsel to the Solicitor) to the
Solicitor of Labor
- LAB 151 Special Assistant to the
Director, Women's Bureau
- LAB 153 Special Assistant to the
Assistant Secretary for Occupational
Safety and Health
- LAB 159 Special Assistant to the
Deputy Under Secretary for
International Affairs, Bureau of
International Labor Affairs
- LAB 160 Director of Scheduling and
Advance to the Chief of Staff
- LAB 161 Special Assistant to the
Director of Scheduling and Advance
- LAB 164 Director of Communications
and Public Information to the
Assistant Secretary for Employment
and Training
- LAB 168 Director of Public Liaison to
the Secretary
- LAB 170 Special Assistant to the
Deputy Secretary of Labor
- LAB 171 Confidential Assistant to the
Secretary of Labor
- LAB 175 White House Liaison to the
Deputy Secretary
- LAB 177 Special Assistant to the
Secretary of Labor
- LAB 179 Special Assistant to the
Assistant Secretary, Employment
Standards Administration
- LAB 182 Counselor to the Deputy
Secretary of Labor
- LAB 187 Legislative Assistant to the
Assistant Secretary for Employment
and Training
- LAB 191 Special Assistant to the
Assistant Secretary for Policy
- LAB 196 Executive Assistant to the
Assistant Secretary, Veterans
Employment and Training
- LAB 197 Legislative Assistant to the
Assistant Secretary for Congressional
and Intergovernmental Affairs
- LAB 203 Executive Assistant to the
Assistant Secretary for Veterans'
Employment and Training
- LAB 204 Special Assistant to the
Assistant Secretary for Veterans'
Employment and Training
- LAB 205 Special Assistant to the
Assistant Secretary, Office of
Congressional and Intergovernmental
Affairs
- LAB 212 Special Assistant to the
Assistant Secretary for Policy
- LAB 217 Associate Director to the
Assistant Secretary for Congressional
and Intergovernmental Affairs
- LAB 220 Special Assistant to the
Assistant Secretary for Public Affairs
- LAB 230 Special Assistant to the
Assistant Secretary for Public Affairs
- LAB 233 Special Assistant to the
Assistant Secretary, Employment
Standards Administration
- LAB 239 Special Assistant to the
Secretary of Labor
- LAB 240 Legislative Assistant to the
Assistant Secretary for Congressional
and Intergovernmental Affairs
- LAB 244 Special Assistant to the
Secretary of Labor
- LAB 248 Special Assistant to the Chief
of Staff
- LAB 252 Speech Writer to the
Assistant Secretary for Public Affairs
- LAB 253 Deputy Counselor to the
Secretary of Labor
- LAB 259 Special Assistant to the
Assistant Secretary for Policy
- LAB 260 Special Assistant to the Chief
of Staff
- LAB 262 Special Assistant to the
Deputy Assistant Secretary, Office of
Federal Contract Compliance
Programs
- LAB 263 Special Assistant to the
Administrator, Wage and Hour
Division
- LAB 264 Staff Assistant to the
Administrator, Wage and Hour
Division
- LAB 272 Special Assistant to the
Assistant Secretary for Mine Safety
and Health
- LAB 280 Special Assistant to the
Assistant Secretary for Occupational
Safety and Health
- LAB 281 Senior Public Affairs Advisor
to the Assistant Secretary for Public
Affairs
- LAB 283 Advisor to the Assistant
Secretary for Mine Safety and Health
- LAB 284 Legislative Assistant to the
Administrator, Office of Policy and
Research, Employment and Training
Administration
- LAB 285 Chief of Staff to the Assistant
Secretary for Employment and
Training
- Section 213.3316 Department of
Health and Human Services*
- HHS 14 Special Assistant to the
Executive Secretary
- HHS 17 Director of Scheduling to the
Chief of Staff, Office of the Secretary
- HHS 31 Special Assistant to the
Secretary of Health and Human
Services
- HHS 120 Special Assistant to the
General Counsel
- HHS 187 Special Assistant to the
Deputy Assistant Secretary for
Legislation (Health)
- HHS 230 Attorney Advisor (Special
Assistant) to the General Counsel
- HHS 276 Special Assistant for Liaison
to the Associate Commissioner for
Legislative Affairs
- HHS 315 Special Assistant to the
Director of Intergovernmental Affairs
- HHS 331 Special Assistant to the
Administrator, Health Care Financing
Administration
- HHS 336 Special Assistant to the
Deputy Assistant Secretary for
Legislation (Human Services)
- HHS 340 Executive Assistant to the
Assistant Secretary for Legislation
- HHS 346 Congressional Liaison
Specialist to the Deputy Assistant
Secretary for Legislation
(Congressional Liaison)
- HHS 368 Senior Press Officer to the
Health Care Financing Administration
- HHS 373 Confidential Assistant to the
Executive Secretary
- HHS 374 Confidential Assistant to the
Executive Secretary
- HHS 395 Special Assistant to the
Director, Office of Community
Services, Administration for Children
and Families.
- HHS 399 Special Assistant to the
Assistant Secretary for Children and
Families
- HHS 415 Special Assistant to the
Secretary, Department of Health and
Human Services

- HHS 419 Special Assistant to the Secretary of Health and Human Services
- HHS 424 Confidential Assistant (Scheduling) to the Director of Scheduling
- HHS 427 Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for the Administration for Children and Families
- HHS 487 Confidential Assistant to the Administrator, Health Care Financing Administration
- HHS 500 Director, Office of Professional Relations to the Director, Center for Health Plans and Providers, Health Care Financing Administration
- HHS 510 Deputy Director, Office of Professional Relations to the Director, Office of Professional Relations, Health Care Financing Administration
- HHS 512 Special Assistant to the Assistant Secretary for Children and Families
- HHS 527 Confidential Assistant (Scheduling) to the Director of Scheduling
- HHS 529 Confidential Assistant (Scheduling) to the Director of Scheduling and Advance
- HHS 549 Speechwriter to the Director of Speechwriting, Office of the Deputy Assistant Secretary for Public Affairs (Media)
- HHS 553 Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
- HHS 556 Director of Speechwriting to the Deputy Assistant Secretary for Public Affairs (Media)
- HHS 558 Confidential Assistant to the Assistant Secretary for Public Affairs
- HHS 585 Special Assistant (Speechwriter) to the Director of Speechwriting
- HHS 588 Director, Division of Intergovernmental Affairs to the Assistant Secretary for the Administration for Children and Families
- HHS 589 Speechwriter to the Director of Speechwriting
- HHS 590 Confidential Assistant (Advance) to the Director of Scheduling and Advance
- HHS 615 Special Assistant to the Director of Communications, Communications Services Division
- HHS 622 Special Assistant to the Director, Office of Professional Relations, Health Care Financing Administration
- HHS 624 Special Assistant to the Commissioner, Administration for Children and Families
- HHS 625 Special Assistant to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
- HHS 628 Special Assistant to the Administrator, Substance Abuse and Mental Health Services Administration
- HHS 632 Special Outreach Coordinator to the Assistant Secretary for Public Affairs
- HHS 634 Special Assistant to the Deputy Director, Office of Child Support Enforcement
- HHS 636 Senior Advisor to the Director, Indian Health Service
- HHS 639 Special Assistant to the Deputy Assistant Secretary for Policy and External Affairs
- HHS 643 Executive Assistant for Legislative Projects to the Assistant Secretary for Health
- HHS 644 White House Liaison to the Chief of Staff
- HHS 645 Strategic Planning and Policy Coordinator to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
- HHS 646 Deputy Chief of Staff to the Chief of Staff
- HHS 652 Executive Assistant to the Assistant Secretary for Planning and Evaluation
- HHS 656 Confidential Assistant, Office of Scheduling to the Director of Scheduling
- HHS 657 Executive Director, Presidential Advisory Council on HIV/AIDS to the Assistant Secretary for Public Health and Science
- HHS 658 Confidential Assistant (Scheduling) to the Director of Scheduling
- HHS 659 Special Assistant to the Deputy Secretary
- HHS 660 Confidential Assistant to the Executive Secretary
- HHS 661 Special Assistant to the Deputy Secretary of Health and Human Services
- HHS 662 Confidential Assistant to the Deputy Chief of Staff
- HHS 664 Special Assistant to the Deputy Assistant Secretary for Legislation
- HHS 665 Deputy Director for Policy to the Director of Intergovernmental Affairs
- HHS 666 Deputy Director for Operations to the Director of Intergovernmental Affairs
- HHS 667 Confidential Assistant to the Executive Secretary
- Section 213.3317 Department of Education*
- EDU 1 Special Assistant to the Secretary's Regional Representative, Region IX
- EDU 4 Deputy Secretary's Regional Representative, Region IV (Atlanta, GA) to the Secretary's Regional Representative
- EDU 5 Confidential Assistant to the Director, Scheduling and Briefing Staff
- EDU 6 Confidential Assistant to the Special Assistant to the Secretary
- EDU 7 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 10 Confidential Assistant to the Assistant Secretary for Vocational and Adult Education
- EDU 12 Press Assistant to the Director Office of Public Affairs
- EDU 13 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 14 Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
- EDU 16 Special Assistant to the Assistant Secretary, Intergovernmental and Interagency Affairs
- EDU 19 Director, Intergovernmental and Interagency Affairs Coordination to the Deputy Assistant Secretary, Intergovernmental and Constituent Relations
- EDU 20 Steward to the Chief of Staff
- EDU 21 Confidential Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 22 Confidential Assistant to the Special Advisor to the Secretary in the Office of the Secretary
- EDU 23 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 24 Confidential Assistant to the Deputy Assistant Secretary for Regional and Community Services
- EDU 25 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 26 Confidential Assistant to the Assistant Secretary, Office for Civil Rights
- EDU 28 Confidential Assistant to the Assistant Secretary, Office of Civil Rights
- EDU 29 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
- EDU 30 Director, Scheduling and Briefing Staff to the Chief of Staff, Office of the Secretary
- EDU 31 Director, Congressional Affairs to the Assistant Secretary, Office of Legislation and Congressional Affairs
- EDU 34 Special Assistant to the Commissioner, Rehabilitation Service Administration
- EDU 37 Special Assistant to the Assistant Secretary, Office for Civil Rights
- EDU 38 Deputy Assistant Secretary for Intergovernmental and Constituent Relations to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs

- EDU 39 Special Assistant to the Assistant Secretary, OPE
- EDU 41 Confidential Assistant to the Special Assistant to the Secretary
- EDU 42 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
- EDU 43 Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
- EDU 46 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 48 Special Assistant/Chief of Staff to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 49 Confidential Assistant to the Director Scheduling and Briefing Staff
- EDU 50 Special Assistant to the Director, Office of Public Affairs
- EDU 51 Director, White House Initiatives on Tribal Colleges and Universities to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 52 Special Assistant to the Director, Office of Public Affairs
- EDU 53 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 54 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
- EDU 55 Special Assistant (Special Advisor, HBCU) to the Director, Historically Black Colleges and Universities Staff
- EDU 56 Special Assistant to the Secretary's Regional Representative, Region VII
- EDU 58 Confidential Assistant to the Director, Executive Secretariat
- EDU 59 Special Assistant to the Deputy Secretary,
- EDU 60 Confidential Assistant to the Chief of Staff, Office of the Secretary
- EDU 61 Special Assistant to the Assistant Secretary of Special Education and Rehabilitative Services
- EDU 65 Confidential Assistant to the Director, Office of Public Affairs
- EDU 66 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
- EDU 67 Special Assistant to the Secretary of Education
- EDU 69 Confidential Assistant to the Special Assistant, Office of the Deputy Secretary
- EDU 71 Executive Assistant to the Deputy Secretary of Education
- EDU 73 Confidential Assistant to the Deputy Assistant Secretary, Intergovernmental and Constituent Relations
- EDU 74 Chief of Staff to the Deputy Secretary
- EDU 75 Confidential Assistant to the Secretary's Regional
- EDU 76 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 78 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 80 Deputy Director for Policy and Programs to the Director, Office of Bilingual Education and Minority Language Affairs
- EDU 81 Special Assistant to the Secretary of Education
- EDU 82 Deputy Director for Administration and Management to the Director, Office of Bilingual Education and Minority Language Affairs
- EDU 85 Special Assistant to the Deputy Assistant Secretary, Office of Student Financial Assistance Programs
- EDU 86 Deputy Assistant Secretary for Regional and Community Services to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 87 Special Assistant to the Director, Office of Special Education Programs
- EDU 88 Special Assistant to the Deputy Assistant Secretary for Regional and Community Services
- EDU 89 Special Assistant to the Counselor to the Secretary
- EDU 90 Special Assistant to the Counselor to the Secretary
- EDU 92 Deputy Assistant Secretary for Management and Planning to the Assistant Secretary for Elementary and Secondary Education
- EDU 93 Confidential Assistant to the Special Assistant, Office of the Secretary
- EDU 94 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 96 Special Assistant to the Director, Scheduling and Briefing, Office of the Secretary
- EDU 98 Special Assistant to the Special Advisor to the Secretary
- EDU 100 Confidential Assistant to the Senior Advisor to the Secretary
- EDU 101 Deputy Secretary's Regional Representative to the Secretary's Regional Representative, Region I, Boston, MA
- EDU 102 Special Assistant to the Deputy Secretary
- EDU 103 Secretary's Regional Representative, Region VIII-Denver, CO, to the Assistant Secretary for Intergovernmental and Interagency Affairs
- EDU 104 Special Assistant to the Counselor to the Secretary
- EDU 106 Special Assistant to the Senior Advisor to the Secretary (Director, America Reads Challenge)
- EDU 107 Secretary's Regional Representative, Region V, Chicago, IL, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 109 Secretary's Regional Representative, Region VII, Kansas City, MO, to the Director, of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 110 Secretary's Regional Representative-Region II, New York, N.Y. to the Deputy Assistant Secretary for Regional Services
- EDU 113 Special Assistant to the Director, Corporate Liaison
- EDU 114 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 117 Director, Historically Black Colleges to the Assistant Secretary, Office of Postsecondary Education
- EDU 120 Special Assistant to the Deputy Secretary, Office of the Deputy Secretary
- EDU 122 Deputy Secretary's Regional Representative Region VI, Dallas, Texas to the Secretary's Regional Representative
- EDU 123 Secretary's Regional Representatives Region VI, Dallas, TX, to the Assistant Secretary for Intergovernmental and Interagency Affairs
- EDU 124 Executive Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 127 Secretary's Regional Representative, Region I, Boston, Massachusetts to the Director, Regional Services Staff
- EDU 131 Secretary's Regional Representative, Region IX, San Francisco, CA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 132 Confidential Assistant to the Director, Office of Educational Technology, Office of the Deputy Secretary
- EDU 133 Director, Corporate Liaison to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 135 Confidential Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 136 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
- EDU 138 Special Assistant to the Under Secretary
- EDU 139 Confidential Assistant to the General Counsel
- EDU 140 Liaison for Community and Junior Colleges to the Assistant

- Secretary for Vocational and Adult Education
- EDU 144 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 145 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 146 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 148 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
- EDU 149 Director, White house Initiative on Hispanic Education to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 150 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 157 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 159 Confidential Assistant to the Chief Financial Officer
- EDU 164 Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 166 Special Assistant to the Director Regional Services Staff
- EDU 170 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 171 Director, Legislation Staff to the Assistant Secretary for Legislation and Congressional Affairs
- EDU 172 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 173 Special Assistant to the Counselor to the Secretary
- EDU 174 Special Assistant to the Director, Office of Educational Technology
- EDU 177 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 190 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 191 Confidential Assistant to the Director, Scheduling and Briefing Staff
- EDU 198 Confidential Assistant to the Assistant Secretary, Office of Secondary and Elementary Education
- EDU 203 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 208 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
- EDU 216 Confidential Assistant to the Under Secretary, Office of the Under Secretary
- EDU 219 Congressional Assistant to the Special Assistant to the Deputy Secretary
- EDU 220 Confidential Assistant to the Director, Office of Public Affairs
- EDU 223 Confidential Assistant to the Special Advisor to the Secretary
- EDU 225 Confidential Assistant to the Director, Intergovernmental and Interagency Coordination
- EDU 240 Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 247 Confidential Assistant to the Deputy Secretary
- EDU 249 Confidential Assistant to the Director, Office of Public Affairs
- EDU 255 Confidential Assistant to the Assistant Secretary (Office of Postsecondary Education)
- EDU 256 Confidential Assistant to the Chief of Staff
- EDU 282 Confidential Assistant to the Director, Scheduling and Briefing Staff
- EDU 299 Confidential Assistant to the Special Assistant, Office of the Secretary
- EDU 332 Confidential Assistant to the Advisor to the Secretary (Director, America Reads Challenge)
- EDU 340 Deputy Secretary's Regional Representative, Region II, New York, NY, to the Secretary's Regional Representative
- EDU 347 Secretary's Regional Representative, Region X, Seattle, WA, to the Director of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 356 Deputy Director, to the Director, Office of Public Affairs
- EDU 404 Secretary's Regional Representative, Region IV, Atlanta, GA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 427 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
- Section 213.3318 Environmental Protection Agency*
- EPA 171 Congressional Liaison Specialist to the Director, Congressional Liaison Division
- EPA 172 Special Assistant to the Assistant Administrator, Office of Solid Waste and Emergency Response
- EPA 175 Director, Office of the Executive Secretariat to the Chief of Staff, Office of the Administrator
- EPA 177 Senior Policy Advisor to the Assistant Administrator, Office of Air and Radiation
- EPA 182 Legal Advisor to the Assistant Administrator for Prevention, Pesticides and Toxic Substances
- EPA 184 Chief, Policy Counsel to the Assistant Administrator, Office of Water
- EPA 187 Counsel to the Assistant Administrator for Air and Radiation
- EPA 188 Legislative Coordinator to the Assistant Administrator, Office of Solid Waste and Emergency Response
- EPA 194 Special Assistant to the Associate Administrator for Communications, Education, and Public Affairs
- EPA 198 Assistant to the Deputy Administrator for External Affairs
- EPA 199 Policy Advisor to the Assistant Administrator for Air and Radiation
- EPA 201 Executive Assistant to the Associate Administrator for Regional Operations and State and Local Relations
- EPA 202 Special Assistant/Advanced Program Advisor to the Assistant Administrator for Enforcement and Compliance Assurance
- EPA 203 Special Assistant to the Associate Administrator, Office of Regional Operations and State/Local Relations
- EPA 204 Special Assistant to the Chief of Staff
- EPA 205 Senior Advisor to the Assistant Administrator for the Office of Policy Planning and Evaluation
- EPA 206 Special Assistant to the Administrator
- EPA 208 Special Assistant to the Associate Administrator
- EPA 209 Assistant to the Deputy Chief to the Deputy Chief of Staff (Scheduling)
- EPA 210 Staff Assistant to the Deputy Associate Administrator
- EPA 211 Assistant to the Deputy Administrator for External Affairs
- EPA 212 Staff Assistant to the Deputy Associate Administrator for Communications, Education and Public Affairs
- EPA 213 Deputy Associate Administrator for State and Local Relations to the Associate Administrator
- EPA 214 Special Assistant to the Administrator, Office of the Administrator
- EPA 215 Attorney-Advisor to the Associate General Counsel
- EPA 216 Special Assistant to the Chief of Staff
- EPA 217 Congressional Liaison Specialist to the Director, Office of Congressional Affairs
- EPA 218 Deputy Associate Administrator to the Associate Administrator, Congressional and Intergovernmental Relations

Section 213.3322 Surface Transportation Board (DOT)

STB 1 Confidential Assistant to the Chairman

Section 213.3323 Federal Communications Commission

FCC 20 Associate Chief to the Chief, Office of Public Affairs
 FCC 23 Special Assistant for Legislative Affairs to the Chairman
 FCC 24 Special Assistant to the Chief, International Bureau
 FCC 26 Special Assistant (Public Affairs) to the Chief, Cable Services Bureau
 FCC 27 Special Advisor to the Bureau Chief, Cable Services Bureau

Section 213.3323 Overseas Private Investment Corporation

OPIC 18 Confidential Assistant to the President and Chief Executive Officer
 OPIC 19 Special Assistant for Congressional and Intergovernmental Affairs to the Managing Director, Congressional and Intergovernmental Affairs
 OPIC 20 Director, Protocol and Special Initiatives to the Vice President, Investment Development Department

Section 213.3325 United States Tax Court

TCOUS 41 Secretary and Confidential Assistant to a Judge
 TCOUS 42 Secretary and Confidential Assistant to a Judge
 TCOUS 43 Secretary (Confidential Assistant) to a Judge
 TCOUS 44 Secretary and Confidential Assistant to a Judge
 TCOUS 45 Secretary and Confidential Assistant to a Judge
 TCOUS 46 Secretary and Confidential Assistant to a Judge
 TCOUS 47 Secretary (Confidential Assistant) to a Judge
 TCOUS 48 Secretary and Confidential Assistant to a Judge
 TCOUS 49 Secretary and Confidential Assistant to a Judge
 TCOUS 50 Secretary and Confidential Assistant to a Judge
 TCOUS 51 Secretary and Confidential Assistant to a Judge
 TCOUS 52 Secretary (Confidential Assistant) to a Judge
 TCOUS 53 Secretary and Confidential Assistant to a Judge
 TCOUS 54 Secretary and Confidential Assistant to a Judge
 TCOUS 56 Secretary and Confidential Assistant to a Judge
 TCOUS 57 Secretary and Confidential Assistant to a Judge
 TCOUS 58 Secretary and Confidential Assistant to a Judge
 TCOUS 59 Secretary and Confidential Assistant to a Judge

TCOUS 60 Secretary (Confidential Assistant) to a Judge
 TCOUS 61 Secretary and Confidential Assistant to a Judge
 TCOUS 62 Secretary and Confidential Assistant to a Judge
 TCOUS 63 Secretary and Confidential Assistant to a Judge
 TCOUS 64 Secretary and Confidential Assistant to a Judge
 TCOUS 65 Secretary and Confidential Assistant to a Judge
 TCOUS 66 Trial Clerk to a Judge
 TCOUS 67 Trial Clerk to a Judge
 TCOUS 68 Trial Clerk to a Judge
 TCOUS 69 Trial Clerk to a Judge
 TCOUS 70 Trial Clerk to a Judge
 TCOUS 71 Trial Clerk to a Judge
 TCOUS 72 Trial Clerk to a Judge
 TCOUS 73 Trial Clerk to a Judge
 TCOUS 74 Trial Clerk to a Judge
 TCOUS 75 Trial Clerk to a Judge
 TCOUS 77 Trial Clerk to a Judge
 TCOUS 79 Trial Clerk to a Judge
 TCOUS 80 Secretary (Confidential Assistant) to a Judge
 TCOUS 82 Secretary (Confidential Assistant) to a Judge

Section 213.3327 Department of Veterans Affairs

VA 72 Special Assistant to the Assistant Secretary for Congressional Affairs
 VA 74 Special Assistant to the Secretary of Veterans Affairs
 VA 78 Special Assistant to the Assistant Secretary for Finance and Information Resources Management
 VA 79 Special Assistant to the Assistant Secretary for Human Resources and Administration
 VA 84 Special Assistant to the Assistant Secretary for Congressional Affairs
 VA 87 Special Assistant to the Secretary of Veterans Affairs
 VA 89 Special Assistant to the Director, National Cemetery System
 VA 90 Executive Assistant to the Deputy Assistant Secretary for Veterans Affairs
 VA 91 Special Assistant to the Secretary of Veterans Affairs
 VA 92 Special Assistant to the Deputy Secretary of Veterans Affairs
 VA 93 Special Assistant to the Secretary of Veterans Affairs
 VA 94 Executive Assistant to the Secretary of Veterans Affairs/Deputy Chief of Staff

Section 213.3328 United States Information Agency

USIA 12 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
 USIA 14 Program Officer to the Associate Director, Bureau of Information

USIA 22 Supervisory Public Affairs Specialist (New York, New York) to the Associate Director, Bureau of Information, Foreign Press Center
 USIA 33 Media Relations Advisor to the Director, Office of Public Liaison
 USIA 43 Director, Office of Citizen Exchanges to the Associate Director, Bureau of Educational and Cultural Affairs
 USIA 54 Special Assistant to the Director, Office of Citizen Exchanges
 USIA 67 Chief, Voluntary Visitors Division to the Director, Office of International Visitors, Bureau of Educational and Cultural Affairs
 USIA 89 Staff Director, Advisory Board for Cuba Broadcasting to the Chairman of the Advisory Board
 USIA 93 Program Officer to the Deputy Director, Office of European and NIS Affairs
 USIA 101 Public Affairs Specialist to the Director, New York Foreign Press Center, New York, NY
 USIA 118 Special Assistant to the Director, United States Information Agency
 USIA 124 Special Assistant to the Associate Director for Programs, Bureau of Information
 USIA 125 Special Assistant to the Director, Office of Academic Programs, Bureau of Educational and Cultural Affairs
 USIA 126 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
 USIA 127 Writer to the Director, Office of Policy
 USIA 137 Deputy Director to the Director, Office of Arts America
 USIA 138 Senior Coordinator for Multi-Media Development to the Associate Director, Bureau of Information
 USIA 141 Director, Office of Support Services to the Associate Director of the Bureau of Information
 USIA 145 Confidential Assistant to the Director, Office of Cuba Broadcasting
 USIA 146 Confidential Assistant to the Director, United States Information Agency
 USIA 147 Senior Coordinator for Public Diplomacy Programs to the Associate Director, Bureau of Information
 USIA 149 Special Assistant to the Director, Office of International Visitors
 USIA 150 Confidential Assistant to the Director, Voice of America
 USIA 152 Director, Office of Congressional and External Affairs to the Director, International Broadcasting Bureau
 USIA 153 Senior Advisor to the Director, Citizen Exchanges

USIA 154 Confidential Assistant to the Director, Office of Cuba Broadcasting

Section 213.3330 Securities and Exchange Commission

SEC 2 Confidential Assistant to a Commissioner

SEC 3 Confidential Assistant to a Commissioner

SEC 4 Confidential Assistant to the Chief of Staff

SEC 5 Confidential Assistant to a Commissioner

SEC 6 Confidential Assistant to a Commissioner

SEC 8 Secretary (OA) to the Chief Accountant

SEC 11 Confidential Assistant to the Chairman

SEC 12 Director of Public Affairs to the Chairman, Securities and Exchange Commission

SEC 15 Secretary (OA) to the Director, Market Regulation

SEC 16 Secretary to the Director

SEC 18 Secretary to the Director, Division Of Investment Management

SEC 19 Secretary to the Director, Division of Corporate Finance

SEC 24 Secretary to the Chief Economist

SEC 28 Confidential Assistant to the Chairman of the Securities and Exchange Commission

SEC 29 Secretary to the Deputy Director of Market Regulation

SEC 31 Public Affairs Specialist to the Director of Public Affairs

SEC 32 Special Assistant for Press Relations to the Director of Public Affairs, Policy Evaluation and Research

SEC 34 Secretary to the Executive Director

SEC 37 Writer-Editor to the Chief of Staff

Section 213.3331 Department of Energy

DOE 439 Public Assistant to the Director, Office of Public Affairs

DOE 576 Director, Office of Scheduling and Logistics to the Assistant Secretary for Human Resources and Management

DOE 576 Special Assistant to the Assistant Secretary for Policy and International Affairs

DOE 580 Staff Assistant to the Director, Office of Nonproliferation and National Security

DOE 587 Staff Assistant to the Assistant Secretary for Environmental Safety and Health

DOE 591 Staff Assistant to the Deputy Assistant Secretary for Building Technologies

DOE 602 Senior Staff Advisor to the Director, Office of Energy Research

DOE 603 Special Assistant to the Director, Office of Strategic Planning and Analysis

DOE 604 Staff Assistant to the Assistant Secretary for Policy and International Affairs

DOE 610 Staff Assistant to the Director, Office of Energy Research

DOE 615 Staff Assistant to the Director, Office of Intelligence and National Security

DOE 622 Legislative Affairs Specialist to the Deputy Assistant Secretary for Senate Liaison, Office of Congressional and Intergovernmental Affairs

DOE 625 Staff Assistant to the Associate Deputy Secretary for Field Management

DOE 626 Staff Assistant to the Deputy Assistant Secretary for Transportation Technologies

DOE 631 Special Assistant to the Press Secretary, Press Services Division, Office of Public and Consumer Affairs

DOE 644 Staff Assistant to the Assistant Secretary for Efficiency and Renewable Energy

DOE 654 Confidential Staff Assistant to the Director, Office of Economic Impact and Diversity

DOE 655 Special Assistant for Regulatory Compliance to the Deputy Assistant Secretary for Compliance and Program Coordination

DOE 657 Special Assistant to the Director, Office of Economic Impact and Diversity

DOE 658 Director, Office of Natural Gas Policy to the Principal Deputy Assistant Secretary for Policy

DOE 663 Assistant Director for Energy Research (Communications and Development) to the Director, Office of Energy Research

DOE 664 Staff Assistant to the Deputy Assistant Secretary for Planning, Policy and Budget

DOE 665 Special Liaison (Federal Power Marketing Administration) to the Assistant Secretary for Energy Efficiency and Renewable Energy

DOE 666 Special Assistant to the Director, Press Services Division

DOE 667 Special Assistant to the Assistant Secretary for Energy and Renewable Energy

DOE 672 Staff Assistant to the Assistant Secretary for Policy and International Affairs

DOE 674 Staff Assistant to the Deputy Assistant Secretary for Technical and Financial Assistance

DOE 676 Confidential Assistant to the Assistant Secretary for Environmental Management

DOE 678 Staff Assistant to the Assistant Secretary for Fossil Energy

DOE 679 Special Assistant to the Assistant Secretary for Policy and International Affairs

DOE 680 Staff Assistant to the Chief Financial Officer

DOE 681 Special Assistant to the Director, Office of Worker and Community Transition

DOE 682 Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs

DOE 684 Program Specialist to the Director, International Policy and Analysis Division

DOE 686 Associate Director to the Director, Office of Nuclear Energy, Science and Technology

DOE 694 Staff Assistant to the Director, Office of Budget Planning and Customer Service

DOE 695 Legislative Affairs Liaison Officer to the Deputy Assistant Secretary for House Liaison

DOE 697 Special Assistant to the Assistant Secretary for Environmental Management

DOE 699 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy

DOE 701 Special Assistant to the Assistant Secretary for Defense Programs

DOE 702 Special Assistant to the Director, Office of Worker and Community Transition

DOE 704 Special Assistant to the Secretary of Energy

DOE 705 Special Assistant to the Secretary of Energy

DOE 707 Executive Assistant to the Secretary of Energy

DOE 708 Special Projects Liaison Specialist to the Director, Public Affairs

DOE 709 Senior Advisor to the Assistant Secretary for Environment, Safety and Health

DOE 710 Special Assistant to the Deputy Secretary of Energy

DOE 712 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy

DOE 713 Staff Assistant (Legal) to the Assistant Secretary for Environmental Management

DOE 714 Special Assistant for Energy Security and International Issues to the Assistant Secretary for Fossil Energy

DOE 715 Special Assistant to the Director, Scheduling and Logistics

DOE 716 Briefing Book Coordinator to the Director, Scheduling and Logistics

DOE 717 Special Assistant to the Director, Scheduling and Advance

DOE 718 Intergovernmental Specialist to the Deputy Assistant Secretary, Office of Planning, Budget and Policy

- DOE 719 Special Assistant to the Director, Office of Worker and Community Transition
- DOE 720 Director of Communications to the Assistant Secretary for Energy Efficiency and Renewable Energy
- DOE 721 Speechwriter to the Director, Office of Public Affairs
- DOE 722 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
- DOE 723 Special Assistant to the Deputy Assistant Secretary for Building Technology, State and Community Programs
- DOE 724 Special Assistant to the Secretary and Director of Logistics and Advance to the Assistant Secretary for Human Resources and Administration
- DOE 726 Staff Assistant to the Special Assistant and Acting Assistant Secretary of Policy and International Affairs
- DOE 727 Staff Assistant to the Director, Scheduling and Advance
- DOE 729 Staff Assistant to the Director, Office of Scheduling and Advance
- DOE 730 Confidential Assistant to the Director, Office of Economic Impact and Diversity
- DOE 732 White House Liaison to the Secretary of Energy
- DOE 733 Special Assistant for Management Reform to the Secretary of Energy
- DOE 734 Senior Program Advisor to the Associate Deputy Secretary for Field Management
- DOE 735 Confidential Assistant to the Director of Energy Research
- DOE 736 Special Assistant to the Director, Office of Energy Research
- DOE 737 Special Assistant to the Secretary of Energy
- DOE 738 Special Assistant to the Associate Deputy Secretary for Field Management
- DOE 739 Special Assistant to the Secretary and Director of Scheduling to the Assistant Secretary for Human Resources and Administration
- DOE 740 Special Assistant to the Director, Office of Civilian Radioactive Management
- DOE 741 Special Assistant to the Deputy Assistant Secretary for Natural Gas and Petroleum Technology
- DOE 742 Special Assistant to the Assistant Secretary for Human Resources and Administration
- DOE 743 Special Assistant to the Assistant Secretary for Policy and International Affairs
- DOE 744 Special Assistant for External Programs to the Director, Office of Nuclear Energy, Science and Technology
- DOE 747 Deputy Assistant Secretary for Senate Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs
- Federal Energy Regulatory Commission
- FERC 1 Special Assistant to the Director, Office of External Affairs
- FERC 2 Confidential Assistant to a Member
- FERC 3 Confidential Assistant to a Member
- FERC 4 Attorney-Advisor (Public Utilities) to the General Counsel
- FERC 6 Confidential Assistant to a Member
- FERC 13 Technical Advisor to a Member
- Section 213.3332 Small Business Administration*
- SBA 11 Deputy Assistant Administrator for Congressional and Legislative Affairs to the Assistant Administrator for Congressional and Legislative Affairs
- SBA 63 Special Assistant to the Associate Administrator for Communications and Public Liaison
- SBA 100 Special Assistant to the Regional Administrator, Dallas Regional Office
- SBA 128 Assistant Administrator for Women's Business Ownership to the Associate Deputy Administrator for Economic Development
- SBA 151 Director of External Affairs to the Associate Administrator for Communications and Public Liaison
- SBA 157 Special Assistant to the Associate Deputy Administrator for Capital Access
- SBA 168 Director of Intergovernmental Affairs to the Associate Administrator for Communications and Public Liaison
- SBA 169 Regional Administrator, Region I, Boston, MA, to the Administrator, Small Business Administration
- SBA 172 Regional Administrator, Region VII, Kansas City, MO, to the Administrator, Small Business Administration
- SBA 174 Regional Administrator, Region V, Chicago, IL, to the Administrator, Small Business Administration
- SBA 175 Regional Administrator, Region IV, Atlanta, GA, to the Administrator, Small Business Administration
- SBA 176 Regional Administrator, Region II, New York, NY, to the Administrator, Small Business Administration
- SBA 188 Regional Administrator, Region IX, San Francisco, to the Administrator, Small Business Administration
- SBA 189 Regional Administrator, Region X, Seattle, WA, to the Administrator, Small Business Administration
- SBA 193 Director of International Trade to the Assistant Administrator for International Trade
- SBA 196 Director of Communications to the Assistant Administrator of Communications
- SBA 197 Deputy to the Associate Deputy Administrator, Office of Economic Development
- SBA 198 Deputy Associate Administrator to the Associate Administrator for Communications and Public Liaison
- SBA 199 Senior Advisor (Director, Welfare to Work Initiative) to the Associate Deputy Administrator, Office of Entrepreneurial Development
- SBA 200 Senior Advisor to the Associate Administrator for Communications and Public Liaison
- SBA 201 Deputy Director, Welfare to Work Initiative to the Senior Advisor (Director, Welfare to Work Initiative) to the Associate Deputy Administrator, Entrepreneurial Development
- SBA 202 Special Assistant to the Chief of Staff
- SBA 205 Deputy Scheduler to the Chief of Staff
- SBA 206 National Director for Community Outreach to the Administrator, Small Business Administration
- SBA 208 Special Assistant to the Senior Advisor to the Associate Deputy Administrator of Entrepreneurial Development
- SBA 210 Special Assistant to the Senior Advisor to the Administrator
- SBA 211 Speech Writer to the Associate Administrator for Communications and Public Liaison
- Section 213.3333 Federal Deposit Insurance Corporation*
- FDIC 15 Secretary to the Chairman
- Section 213.3334 Federal Trade Commission*
- FTC 2 Director of Public Affairs (Supervisory Public Affairs Specialist) to the Chairman
- FTC 22 Secretary (Office Automation) to the Director, Bureau of Competition
- FTC 23 Special Assistant to a Commissioner
- FTC 24 Special Assistant to a Commissioner
- Section 213.3337 General Services Administration*
- GSA 11 Special Assistant to the Associate Administrator for Enterprise Development

GSA 24 Special Assistant to the Commissioner, Public Buildings Service
 GSA 26 Special Assistant to the Commissioner, Public Building Service
 GSA 51 Special Assistant to the Administrator
 GSA 52 Senior Advisor to the Commissioner, Public Buildings Service
 GSA 69 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
 GSA 89 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
 GSA 90 Deputy Associate Administrator to the Associate Administrator for Congressional and Intergovernmental Affairs
 GSA 91 Special Assistant to the Associate Administrator for Governmentwide Policy
 GSA 94 Congressional Relations Officer to the Associate Administrator, Office of Congressional and Intergovernmental Affairs
 GSA 95 Deputy Chief of Staff to the Chief of Staff
 GSA 113 Special Assistant to the Regional Administrator (Boston, MA)
 GSA 114 Special Assistant to the Regional Administrator, Northeast and Caribbean Region
 GSA 118 Special Assistant to the Regional Administrator, Great Lakes Region
 GSA 119 Special Assistant to the Regional Administrator, Great Lakes Region
 GSA 130 Special Assistant to the Regional Administrator, Region 7
 GSA 131 Supervisory External Affairs Specialist to the Commissioner, Public Buildings Service

Section 213.3339 U.S. International Trade Commission

ITC 3 Staff Assistant (Legal) to a Commissioner
 ITC 5 Confidential Assistant to a Commissioner
 ITC 13 Senior Economist to a Commissioner
 ITC 15 Confidential Assistant to a Commissioner
 ITC 17 Attorney-Advisor (General) to the Chairman
 ITC 31 Executive Assistant to a Commissioner

Section 213.3340 National Archives and Records Administration

NARA 3 Presidential Diarist to the Archivist of the United States

Section 213.3341 National Labor Relations Board

NLRB 1 Confidential Assistant to the Chairman

Section 213.3342 Export-Import Bank of the United States

EXIM 3 Administrative Assistant to the President and Chairman
 EXIM 30 Administrative Assistant to the Director
 EXIM 44 Personal and Confidential Assistant to the Vice Chairman
 EXIM 45 Administrative Assistant to the Director, Bank Board of Directors
 EXIM 46 Special Assistant to the First Vice President and Vice Chair
 EXIM 48 Administrative Assistant to the Director, Bank Board of Directors
 EXIM 49 Deputy Chief of Staff to the Chief of Staff and Vice President, Congressional and External Affairs
 EXIM 50 Personal and Confidential Assistant to the Chairman
 EXIM 51 Assistant to the President and Chairman, Export Import Bank of the United States

Section 213.3343 Farm Credit Administration

FCA 1 Special Assistant to the Chairman
 FCA 8 Secretary to the Chairman
 FCA 11 Special Assistant to a Member
 FCA 13 Special Assistant to a Member
 FCA 15 Congressional and Public Affairs Specialist to the Director of Congressional and Public Affairs

Section 213.3344 Occupational Safety and Health Review Commission

OSHRC 2 Special Assistant to the Chairman of the Occupational Safety and Health Review Commission

Section 213.3346 Selective Service System

SSS 16 Special Assistant to the Director of Selective Service
 SSS 17 Executive Director to the Director of Selective Service
 SSS 18 Confidential Assistant to the Director of Selective Service

Section 213.3347 Federal Mediation and Conciliation Service

FMCS 8 Public Affairs Director to the Director, Federal Mediation and Conciliation Service
 FMCS 9 Special Assistant to the Director, Federal Mediation and Conciliation Service

Section 213.3348 National Aeronautics and Space Administration

NASA 28 Public Affairs Specialist to the Associate Administrator for Public Affairs
 NASA 31 Executive Assistant to the Administrator

NASA 33 Legislative Affairs Specialist to the Associate Administrator, Legislative Affairs
 NASA 34 Manager, Multimedia Relations to the Associate Administrator for Public Affairs
 NASA 35 Director for Enterprise Liaison to the Associate Administrator for Aeronautics and Space Transport Technology
 NASA 37 International Programs Specialist to the Associate Administrator, Office of External Programs
 NASA 38 Writer-Editor to the Associate Administrator for Public Affairs
 NASA 39 Public Affairs Specialist to the Associate Administrator for Public Affairs
 NASA 40 Legislative Affairs Specialist to the Associate Administrator for Legislative Affairs
 NASA 41 State Local Intergovernmental Affairs Specialist to the Associate Administrator for Policy and Plans
 NASA 42 Staff Assistant to the White House Liaison Officer
 NASA 43 Radio Production Specialist to the Associate Administrator, Public Affairs
 NASA 44 Program Specialist to the Special Assistant to the Administrator

Section 213.3351 Federal Mine Safety and Health Review Commission

FM 8 Attorney Advisor to a Commissioner
 FM 17 Confidential Assistant to a Commissioner
 FM 25 Attorney-Advisor to a Commissioner
 FM 26 Attorney-Advisor (General) to the Chairman
 FM 28 Confidential Assistant to a Commissioner
 FM 29 Attorney-Advisor to a Commissioner
 FM 30 Confidential Assistant to a Commissioner

Section 213.3355 Social Security Administration

SSA 4 Special Assistant to the Chief of Staff
 SSA 5 Executive Assistant to the Commissioner of Social Security
 SSA 6 Press Officer to the Deputy Commissioner for Communications
 SSA 7 Deputy Press Officer to the Deputy Commissioner for Communications

Section 213.3356 Commission on Civil Rights

CCR 9 Executive Assistant to the Staff Director
 CCR 12 Special Assistant to a Commissioner

CCR 13 Special Assistant to a Commissioner
 CCR 14 Deputy General Counsel to the General Counsel,
 CCR 23 Special Assistant to a Commissioner
 CCR 30 Special Assistant to a Commissioner
 CCR 32 Special Assistant to a Commissioner

Section 213.3357 National Credit Union Administration

NCUA 9 Staff Assistant to the Chairman of the Board, National Credit Union Administration
 NCUA 12 Executive Assistant to a Board Member
 NCUA 20 Executive Assistant to a Board Member
 NCUA 21 Communications and Administrative Assistant to a Board Member
 NCUA 23 Special Assistant to the Executive Director
 NCUA 24 Writer-Editor to the Chairman

Section 213.3360 Consumer Product Safety Commission

CPSC 49 Office of a Commissioner
 CPSC 50 Staff Assistant to a Commissioner
 CPSC 52 Director, Office of Information and Public Affairs to the Chairman
 CPSC 53 Special Assistant to the Chairman
 CPSC 55 Executive Assistant to the Chairman
 CPSC 56 Director, Office of Congressional Relations to the Chairman
 CPSC 60 Special Assistant to the Chairman
 CPSC 61 Staff Assistant to a Commissioner
 CPSC 62 Special Assistant to a Commissioner
 CPSC 63 Special Assistant to a Commissioner
 CPSC 64 Special Assistant (Legal) to a Commissioner

Section 213.3364 U.S. Arms Control and Disarmament Agency

ACDA 2 Secretary (Steno O/A) to the Deputy Director, U.S. Arms Control and Disarmament Agency
 ACDA 17 Secretary (OA) to the Director
 ACDA 23 Administrative Assistant to the Director and Chairman Board of Directors
 ACDA 27 Special Assistant to the Director
 ACDA 28 Special Assistant to the Director
 ACDA 29 Congressional Affairs Specialist to the Director of Congressional Affairs

ACDA 31 Special Assistant and Speechwriter to the Director
 ACDA 36 Director of Public Information to the Director

Section 213.3367 Federal Maritime Commission

FMC 10 Special Assistant to a Commissioner
 FMC 26 Executive Assistant to the Chairman
 FMC 30 Special Assistant to a Commissioner
 FMC 35 Counsel to a Commissioner
 FMC 37 Counsel to a Commissioner

Section 213.3368 Agency for International Development

AID 125 Executive Assistant to the Chief of Staff
 AID 127 Supervisory Public Affairs Specialist to the Director, Office of External Affairs
 AID 136 Congressional Liaison Officer to the Deputy Assistant Administrator, Bureau of Legislative Affairs
 AID 145 Public Affairs Specialist to the Chief, Public Liaison Office, Bureau for Legislation and Public Affairs
 AID 149 Public Affairs Specialist to the Chief, Legislative and Public Affairs, Public Liaison Division
 AID 150 Legislative Affairs Specialist to the Deputy Assistant Administrator
 AID 151 Congressional Liaison Officer to the Chief of Legislative and Public Affairs, Congressional Liaison Division
 AID 152 Special Assistant to the Assistant Administrator, Bureau for Latin America and the Caribbean

Section 213.3371 Office of Government Ethics

OGE 2 Executive Secretary to the Director, Office of Government Ethics

Section 213.3373 United States Trade and Development Agency

TDA 1 Congressional Liaison Officer to the Director, Trade and Development Agency
 TDA 3 Special Assistant for Public Affairs and Marketing to the Director, Trade and Development Agency

Section 213.3376 Appalachian Regional Commission

ARC 12 Senior Policy Advisor to the Federal Co-Chairman
 ARC 13 Policy Advisor to the Federal Co-Chairman

Section 213.3377 Equal Employment Opportunity Commission

EEOC 13 Confidential Assistant to the Director, Legal Counsel

EEOC 15 Media Contact Specialist to the Director, Office of Communications and Legislative Affairs

EEOC 25 Media Contact Specialist (Bilingual) to the Director, Office of Communications and Legislative Affairs, Office of the Director

EEOC 32 Senior Advisor to a Commissioner

EEOC 36 Attorney Advisor to the General Counsel

Section 213.3379 Commodity Futures Trading Commission

CFTC 3 Administrative Assistant to a Commissioner
 CFTC 4 Administrative Assistant to a Commissioner
 CFTC 6 Administrative Assistant to a Commissioner
 CFTC 16 Special Assistant to a Commissioner
 CFTC 29 Special Assistant to a Commissioner
 CFTC 30 General Attorney (Special Counsel) to the General Counsel

Section 213.3382 National Endowment for the Arts

NEA 9 Congressional Liaison Officer to the Chairman
 NEA 72 Director of Policy, Planning and Research to the Chairman
 NEA 76 Executive Secretary to the Chairman
 NEA 77 Director of Public Affairs to the Chairman, National Endowment for the Arts
 NEA 78 Special Assistant to the Chairman

National Endowment for the Humanities

NEH 69 Special Assistant to the Chairman

Section 213.3384 Department of Housing and Urban Development

HUD 143 Special Assistant to the Director, Executive Scheduling
 HUD 153 Executive Assistant to the President, Government National Mortgage Association
 HUD 198 Special Assistant to the Senior Advisor to the Secretary
 HUD 216 Special Assistant to the Assistant Secretary for Administration
 HUD 249 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
 HUD 272 Deputy Assistant Secretary for Grant Programs to the Assistant Secretary for Community Planning and Development
 HUD 281 Special Administrator to Regional Administrator
 HUD 288 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations

- HUD 292 Special Assistant to the Deputy Assistant Secretary for Economic Development
- HUD 323 Executive Assistant to the Assistant Secretary for Housing, Federal Housing Commissioner
- HUD 337 Special Assistant to the Assistant Secretary for Public Affairs
- HUD 354 Special Assistant to the Assistant Secretary for Public and Indian Housing
- HUD 385 Special Assistant to the Assistant Secretary for Public Affairs, Office of Press Relations
- HUD 387 Special Assistant to the Deputy Assistant Secretary for Public Affairs
- HUD 390 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 412 Executive Assistant to the Secretary of Housing and Urban Development
- HUD 419 Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs
- HUD 420 Scheduling Coordinator to the Director, Office of Scheduling
- HUD 421 Assistant Director to the Director, Executive Secretariat, Office of Administration
- HUD 431 Secretary's Representative (Great Plains) to the Deputy Secretary
- HUD 436 Staff Assistant to the Director, Office of Executive Scheduling
- HUD 437 Special Assistant to the Deputy Assistant Secretary for Public Affairs
- HUD 438 Director, Office of Insured Health Care Facilities to the Assistant Secretary for Housing-Federal, Housing Commissioner
- HUD 446 Senior Intergovernmental Relations Officer to the Deputy Assistant Secretary for Intergovernmental Relations
- HUD 462 Staff Assistant to the Director, Office of Executive Scheduling
- HUD 469 Special Assistant to the Deputy Assistant Secretary for Community Empowerment
- HUD 478 Special Projects Officer to the Senior Advisor to the Secretary
- HUD 482 Special Projects Officer to the Director, Special Actions Office
- HUD 483 Special Assistant (Advance/Security) to the Director, Executive Scheduling
- HUD 487 Advance/Security Coordinator to the Deputy Chief of Staff for Operations
- HUD 492 Special Assistant to the General Deputy Assistant Secretary for Community Planning and Development
- HUD 494 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
- HUD 498 Special Projects Officer to the Senior Advisor to the Secretary
- HUD 505 Legislative Officer to the Deputy Assistant Secretary for Intergovernmental Relations
- HUD 506 Deputy Assistant Secretary for Community Empowerment to the Assistant Secretary for Community Planning and Development
- HUD 508 Deputy Chief of Staff for Operations to the Chief of Staff
- HUD 511 Special Projects Officer to the Secretary's Representative, Mid-Atlantic Office
- HUD 512 Deputy Assistant for Legislation to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 513 Deputy Assistant Secretary for Long Range Planning to the Assistant Secretary for Public Affairs
- HUD 514 Special Assistant to the Secretary's Representative
- HUD 520 Special Assistant to the Chief Financial Officer
- HUD 521 Deputy Assistant Secretary for Public Housing Investments to the Assistant Secretary, Public and Indian Housing
- HUD 528 Director, Intergovernmental Relations to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 529 Intergovernmental Relations Assistant to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 530 Director of Executive Secretariat (DAS for Administrative Services) to the Chief of Staff for Operations
- HUD 534 Special Assistant for Inter-Faith Community Outreach to the Director, Office of Special Actions
- HUD 539 Senior Advisor to the Deputy Secretary
- HUD 541 Director, Corporate and Constituent Outreach to the Assistant Secretary for Public Affairs
- HUD 542 Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
- HUD 543 Staff Assistant to the Director of Special Actions
- HUD 544 Special Assistant to the Director, Office of the Executive Secretariat
- HUD 545 Special Assistant to the Assistant Secretary for Federal Housing and Equal Opportunity
- HUD 546 Special Assistant to the Deputy Assistant Secretary for Community Empowerment
- HUD 547 Briefing Coordinator to the Director, Executive Scheduling
- HUD 548 General Deputy Assistant Secretary to the Assistant Secretary for Public and Indian Housing
- HUD 549 Counselor to the Assistant Secretary for Housing
- HUD 550 Intergovernmental Relations Specialist to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 551 Scheduling Assistant to the Director of Executive Scheduling
- HUD 552 Deputy Assistant Secretary for Research to the Deputy Assistant Secretary for Policy Development
- HUD 553 General Deputy Assistant Secretary for Public Affairs to the Assistant Secretary for Public Affairs
- HUD 554 Special Assistant to the Assistant Secretary for Community Planning and Development
- HUD 555 Staff Assistant to the Director, Office of Special Programs
- HUD 556 Special Assistant to the Assistant Deputy Secretary for Field Policy and Management
- HUD 558 Special Assistant to the Director, Intergovernmental Relations
- HUD 559 Special Assistant to the Secretary's Representative
- HUD 560 Secretary's Representative-Midwest to the Deputy Secretary, Office of the Secretary's Representative
- Section 213.3389 National Mediation Board*
- NMB 52 Confidential Assistant to a Board Member
- NMB 53 Confidential Assistant to a Board Member
- NMB 54 Confidential Assistant to a Board Member
- NMB 55 Confidential Assistant to a Board Member
- Section 213.3391 Office of Personnel Management*
- OPM 65 Special Assistant to the Director, Office of Congressional Relations
- OPM 76 Speech Writer to the Director, Office of Communications
- OPM 79 Special Assistant to the Director, Office of Congressional Relations
- OPM 80 Deputy Director to the Director of Communications
- OPM 82 Deputy Director to the Director of Communications
- OPM 83 Legislative Assistant to the Director, Office of Congressional Relations
- OPM 86 Special Assistant to the Director, Office of Personnel Management
- OPM 87 Confidential Assistant to the Chief of Staff
- OPM 88 Special Assistant to the Chief of Staff

Section 213.3392 Federal Labor Relations Authority

FLRA 19 Staff Assistant to the Chairman
 FLRA 21 Director of External Affairs/ Special Projects to the Chair, Federal Labor Relations Board
 FLRA 22 Director of External Affairs/ Special Projects to the Chair, Federal Labor Relations Authority

Section 213.3393 Pension Benefit Guaranty Corporation

PBGC 7 Assistant Executive Director for Legislative Affairs to the Executive Director
 PBGC 11 Special Assistant to the Deputy Executive Director and Chief Financial Officer
 PBGC 14 Special Assistant to the Deputy Executive Director and Chief Financial Officer
 PBGC 16 Senior Advisor to the Executive Director

Section 213.3394 Department of Transportation

DOT 38 Special Assistant to the Deputy Administrator, National Highway Traffic Safety Administration
 DOT 54 Congressional Liaison Officer to the Director, Office of Congressional Affairs
 DOT 69 Director, Office of Public Affairs to the Federal Railroad Administrator
 DOT 70 Special Assistant to the Assistant Secretary for Governmental Affairs
 DOT 100 Chief, Consumer Information Division to the Director, Office of Public and Consumer Affairs
 DOT 117 Special Assistant to the Secretary of Transportation
 DOT 121 Deputy Director, Office of Congressional Affairs to the Director, Office of Congressional Affairs
 DOT 127 Special Assistant and Chief, Administrative Operations Staff to the Assistant Secretary for Budget and Programs
 DOT 129 Special Counsel to the General Counsel
 DOT 147 Special Assistant to the Assistant to the Secretary and Director of Public Affairs
 DOT 148 Associate Director of Media Relations and Special Projects to the Assistant to the Secretary and Director of Public Affairs
 DOT 150 Special Assistant to the Administrator, National Highway Traffic Safety Administration
 DOT 151 Special Assistant to the Secretary of Transportation
 DOT 159 Special Assistant to the Administrator, Federal Highway Administration

DOT 173 Senior Advisor to the Administrator, Federal Railroad Administration
 DOT 217 Special Assistant to the Associate Deputy Secretary
 DOT 235 Director for Scheduling and Advance to the Chief of Staff
 DOT 242 Deputy Director, Executive Secretariat to the Director, Executive Secretariat
 DOT 254 White House Liaison to the Chief of Staff
 DOT 265 Special Assistant to the Director, Office of External Communications
 DOT 287 Scheduling/Advance to the Director for Scheduling and Advance, Office of the Secretary
 DOT 293 Associate Director, Office of Intergovernmental and Consumer Affairs to the Director, Office of Intergovernmental Affairs
 DOT 294 Special Assistant to the Associate Deputy Secretary
 DOT 301 Director, Office of Intergovernmental Affairs to the Assistant Secretary for Governmental Affairs
 DOT 313 Director, Office of Public and Consumer Affairs to the Deputy Administrator, National Highway Traffic Safety Administration
 DOT 315 Director of Intergovernmental and Congressional Affairs to the Administrator, National Highway Traffic Safety Administration
 DOT 316 Special Assistant to the Director, Office of Scheduling and Advance
 DOT 320 Special Assistant to the Secretary of Transportation
 DOT 321 Special Projects Director to the Administrator, Research and Special Programs Administration
 DOT 324 Scheduling/Advance Assistant to the Director for Scheduling and Advance
 DOT 342 Special Assistant to the Special Assistant for Scheduling and Advance
 DOT 351 Special Assistant to the Deputy Secretary
 DOT 352 Regional Administrator, Region II, New York, N.Y. to the Deputy Administrator, Federal Transit Administration
 DOT 355 Director for Drug Enforcement and Program Compliance to the Chief of Staff
 DOT 356 Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs
 DOT 357 Scheduling/Advance Assistant to the Director for Scheduling and Advance
 DOT 358 Scheduling/Advance Assistant to the Director of Scheduling and Advance

DOT 359 Senior Policy Advisor to the Deputy Secretary

Section 213.3395 Federal Emergency Management Agency

FEMA 53 Deputy Chief of Staff to the Director, Federal Emergency Management Agency
 FEMA 54 Director, Office of Emergency Information and Media Affairs to the Director, Federal Emergency Management Agency
 FEMA 55 Assistant to the Director for Special Events to the Director, Federal Emergency Management Agency
 FEMA 56 Director of Corporate Affairs to the Director, Federal Emergency Management Agency

Section 213.3396 National Transportation Safety Board

NTSB 1 Special Assistant to the Chairman
 NTSB 30 Confidential Assistant to the Chairman
 NTSB 31 Family and Government Affairs Specialist to the Director, Office of Government, Public, and Family Affairs
 NTSB 92 Special Assistant to the Managing Director
 NTSB 102 Special Assistant to a Member
 NTSB 105 Confidential Assistant to the Chairman
 NTSB 106 Director, of Governmental Affairs to the Director, Office of Government, Public and Family Affairs
 NTSB 107 Special Assistant to the Director, Office of Government, Public, and Family Matters

Section 213.3397 Federal Housing Finance Board

FHFB 5 Special Assistant to the Chairman

Senior Level Schedule C Positions (Above GS-15)

Section 213.3342 Export-Import Bank
 Assistant to the Chairman
 Vice President for Communications to the Chairman
 General Counsel to the Chairman
 Special Counselor to the President and Chairman

Section 213.3382 National Endowment for the Arts

Executive Director, President's Commission on the Arts and Humanities to the President of the United States

Section 213.3343 Farm Credit Administration

Secretary of the Board to the Chairman

Executive Assistant to the Chairman of
the Board

Director, Congressional and Public
Affairs, to the Chairman

Executive Assistant to the Members

*Section 213.3393 Pension Benefit
Guaranty Corporation*

Executive Director to the President

Deputy Executive Director and Chief
Negotiator to the Executive Director

Deputy Executive Director and Chief
Financial Officer to the Executive
Director

*Section 213.3333 Federal Deposit
Insurance Corporation*

General Counsel to the Chairman
Special Advisor to the Chairman

*Section 213.3305 Department of the
Treasury*

Chief of Staff to the Comptroller

Office of Thrift Supervision

Executive Director, External Affairs to
the Director

Authority: 5 U.S.C. 3301 and 3302; E.O.
10577, 3 CFR 1954–1958 Comp., P.218.

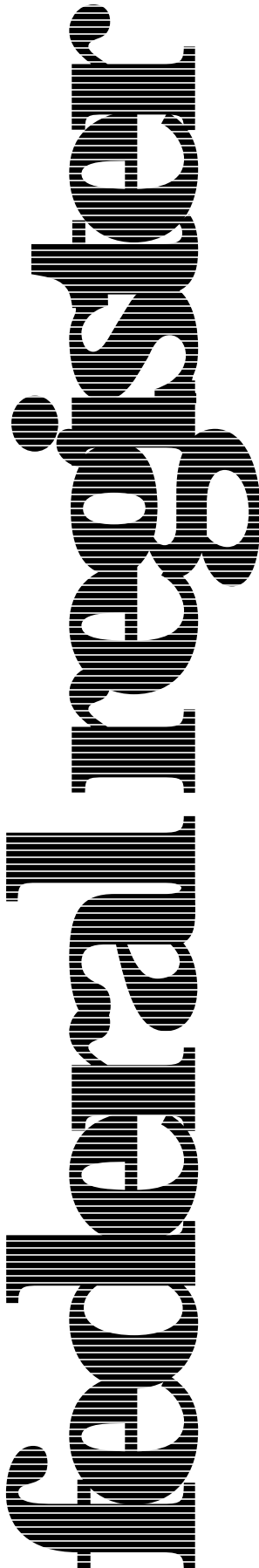
Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–24802 Filed 9–16–98; 8:45 am]

BILLING CODE 6325–01–P



Thursday
September 17, 1998

Part II

Office of Personnel Management

**Excepted Service: Consolidated Listing of
Schedules; A, B, and C Exceptions;
Notice**

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service: Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel
Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 1998, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, § 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. That notice follows. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Interested parties needing information about specific authorities during the year may obtain information by contacting the Staffing Reinvention Office, Room 6500, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, or by calling (202) 606-0830.

The following exceptions were current on June 30, 1998.

Schedule A

Section 213.3102 Entire Executive Civil Service

(a) Positions of Chaplain and Chaplain's Assistant.

(b) (Reserved).

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment that was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will

receive compensation during his or her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS-3. This limited compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary project employment.

(h) Positions in Federal mental institutions when filled by persons who have been patients of such institutions and have been discharged and are certified by an appropriate medical authority thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Temporary and less-than-full time positions for which examining is impracticable. These are:

(1) Positions in remote/isolated locations where examination is impracticable. A remote/isolated location is outside of the local commuting area of a population center from which an employee can reasonably be expected to travel on short notice under adverse weather and/or road conditions which are normal for the area. For this purpose, a population center is a town with housing, schools, health care, stores and other businesses in which the servicing examining office can schedule tests and/or reasonably expect to attract applicants. An individual appointed under this authority may not be employed in the same agency under a combination of this and any other appointment to positions involving related duties and requiring the same qualifications for more than 1,040 working hours in a service year. Temporary appointments under this authority may be extended in 1-year increments, with no limit on the number of such extensions, as an exception to the service limits in § 213.104.

(2) Positions for which a critical hiring needs exists. This includes both short-term positions and continuing positions that an agency must fill on an interim basis pending completion of competitive examining, clearances, or other procedures required for a longer appointment. Appointments under this authority may not exceed 30 days and may be extended up to an additional 30 days if continued employment is essential to the agency's operations. The appointments may not be used to extend

the service limit of any other appointing authority. An agency may not employ the same individual under this authority for more than 60 days in any 12-month period.

(3) Other positions for which OPM determines that examining is impracticable.

(j) Positions filled by current or former Federal employees eligible for placement under special statutory provisions. Appointments under this authority are subject to the following conditions:

(1) *Eligible employees.* (i) Persons previously employed as National Guard Technicians under 32 U.S.C. 709(a) who are entitled to placement under § 353.110 of this chapter, or who are applying for or receiving an annuity under the provisions of 5 U.S.C. 8337(h) or 5 U.S.C. 8456 by reason of a disability that disqualifies them from membership in the National Guard or from holding the military grade required as a condition of their National Guard employment;

(ii) Executive branch employees (other than employees of intelligence agencies) who are entitled to placement under § 353.110 but who are not eligible for reinstatement or noncompetitive appointment under the provisions of part 315 of this chapter.

(iii) Legislative and judicial branch employees and employees of the intelligence agencies defined in 5 U.S.C. 2302(a)(2)(C)(ii) who are entitled to placement assistance under § 353.110.

(2) *Employees excluded.* Employees who were last employed in Schedule C or under a statutory authority that specified the employee served at the discretion, will, or pleasure of the agency are not eligible for appointment under this authority.

(3) *Position to which appointed.* Employees who are entitled to placement under § 353.110 will be appointed to a position that OPM determines is equivalent in pay and grade to the one the individual left, unless the individual elects to be placed in a position of lower grade or pay. National Guard Technicians whose eligibility is based upon a disability may be appointed at the same grade, or equivalent, as their National Guard Technician position or at any lower grade for which they are available.

(4) *Conditions of appointment.* (i) Individuals whose placement eligibility is based on an appointment without time limit will receive appointments without time limit under this authority. These appointees may be reassigned, promoted, or demoted to any position within the same agency for which they qualify.

(ii) Individuals who are eligible for placement under § 353.110 based on a time-limited appointment will be given appointments for a time period equal to the unexpired portion of their previous appointment.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, and technical experts for consultation purposes.

(m) (Reserved).

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.

(o) Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employment under this provision shall not exceed 130 working days a year.

(p)–(q) (Reserved).

(r) Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization. These programs may include: Internship or fellowship programs that provide developmental or professional experiences to individuals who have completed their formal education; training and associateship programs designed to increase the pool of qualified candidates in a particular occupational specialty; professional/industry exchange programs that provide for a cross-fertilization between the agency and the private sector to foster mutual understanding, an exchange of ideas, or to bring experienced practitioners to the agency; residency programs through which participants gain experience in a Federal clinical environment; and programs that require a period of Government service in exchange for educational, financial or other assistance. Appointment under this authority may not exceed 4 years.

(s) Positions with compensation fixed under 5 U.S.C. 5351–5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories. Employment under this authority may not exceed 4 years.

(t) Positions when filled by mentally retarded persons in accordance with the guidance in Federal Personnel Manual chapter 306. Upon completion of 2 years of satisfactory service under this

authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(u) Positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive status under the provisions of Executive Order 12125 and implementing regulations issued by OPM.

(v)–(w) (Reserved).

(x) Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date of that person's release from custody.

(y) (Reserved).

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program, may not exceed 2 years, and are subject to satisfactory outcome of evaluation of the associate's research during the first year.

(bb) Positions when filled by aliens in the absence of qualified citizens. Appointments under this authority are subject to prior approval of OPM except

when the authority is specifically included in a delegated examining agreement with OPM.

(cc)–(ee) (Reserved).

(ff) Not to exceed 25 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Public Law 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he/she ceases to be in a qualifying program only as long as he/she remains in the same agency without a break in service.

(gg)–(hh) (Reserved).

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years, unless extended with OPM approval for up to 1 additional year. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12364, in accordance with requirements published in the Federal Personnel Manual.

(jj)–(kk) (Reserved).

(ll) Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees, filled on a full time, part-time, or intermittent basis.

Section 213.3103 Executive Office of the President

(a) *Office of Administration.* (1) Not to exceed 75 positions to provide administrative services and support to the White House office.

(b) *Office of Management and Budget.* (1) Not to exceed 10 positions at grades GS–9/15.

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

(d)–(f) (Reserved).

(g) *National Security Council.* (1) All positions on the staff of the Council.

(h) *Office of Science and Technology Policy.* (1) Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research Assistant, GS–9, for employment of anyone not to exceed 5 years on projects of a high priority nature.

(i) *Office of National Drug Control Policy.* (1) Not to exceed 15 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or

technical knowledge to aid in anti-drug abuse efforts.

Section 213.3104 Department of State

(a) *Office of the Secretary.* (1) All positions, GS-15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

(2) One position of Museum Curator (Arts), in the Office of the Under Secretary for Management, whose incumbent will serve as Director, Diplomatic Reception Rooms. No new appointments may be made after February 28, 1997.

(b) *American Embassy, Paris, France.* (1) Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

(c)–(f) (Reserved).

(g) *Bureau of Population, Refugees, and Migration.* (1) Not to exceed 10 positions at grades GS-5 through 11 on the staff of the Bureau.

(h) *Bureau of Administration.* (1) One Presidential Travel Officer. No new appointments may be made under this authority after June 11, 1981.

(2) One position of the Director, Art in Embassies Program, GM-1001-15.

Section 213.3105 Department of the Treasury

(a) *Office of the Secretary.* (1) Not to exceed 20 positions at the equivalent of GS-13 through GS-17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(2) Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy. Employment under this authority may not exceed 4 years.

(3) Not to exceed 20 positions in the Office of the Under Secretary (Enforcement). Employment under this authority may not exceed 4 years, and no new appointments may be made after July 31, 2001.

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2)–(5) (Reserved).

(6) Three hundred positions of Criminal Investigator for special assignments.

(7)–(8) (Reserved).

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(d) *Office of Thrift Supervision.* (1) All positions in the supervision policy and supervision operations functions of OTS. No new appointments may be made under this authority after December 31, 1993.

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(2) Two positions of Senior Visiting Pension Actuary, GS-1510-14/15. Appointments to these positions must be for periods not to exceed 24 months.

(f) (Reserved).

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) One hundred positions of criminal investigator for special assignments.

(h) (Reserved).

(i) *Bureau of Government Financial Operations.* (1) Clerical positions at grades GS-5 and below established in Emergency Disbursing Offices to process emergency payments to victims of catastrophes or natural disasters requiring emergency disbursing services. Employment under this authority may not exceed 1 year.

Section 213.3106 Department of Defense

(a) *Office of the Secretary.* (1) Two positions above GS-15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(2)–(5) (Reserved).

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interpreter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

(5) Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled by dependents of military or civilian employees of the U.S.

Government residing in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or separation of a dependent's sponsor: *Provided*, that (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds that the additional employment is in the interest of management.

(7) Twenty secretarial and staff support positions at GS-12 or below on the White House Support Group.

(8) Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students. Persons employed under this authority shall be bona fide high school students, at least 14 years old, pursuing courses related to the position occupied and limited to 1,040 working hours a year. Children of DOD employees may be appointed to these positions, notwithstanding the sons and daughters restriction, if the positions are in field activities at remote locations. Appointments under this authority may be made only to positions for which qualification standards established under 5 CFR Part 302 are consistent with the education and experience standards established for comparable positions in the competitive service. Appointments under this authority may not be used to extend the service limits contained in any other appointing authority.

(d) *General.* (1) Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This

authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

(e) *Uniformed Services University of the Health Sciences.*

(1) Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows.

(2) Positions established to perform work on projects funded from grants.

(f) *National Defense University.* (1) Not to exceed 16 positions of senior policy analyst, GS-15, at the Strategic Concepts Development Center. Initial appointments to these positions may not exceed 6 years, but may be extended thereafter in 1-, 2-, or 3-year increments, indefinitely.

(g) *Defense Communications Agency.* (1) Not to exceed 10 positions at grades GS-10/15 to staff and support the Crisis Management Center at the White House.

(h) *Defense Systems Management College, Fort Belvoir, Va.* (1) The Provost and professors in grades GS-13 through 15.

(i) *George C. Marshall European Center for Security Studies, Garmisch, Germany.* (1) The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany, for initial employment not to exceed 3 years, which may be renewed in increments from 1 to 2 years thereafter.

(j) *Asia-Pacific Center for Security Studies, Honolulu, Hawaii.* (1) The Director, Deputy Director, Dean of

Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center. Appointments may be made not to exceed 3 years and may be extended for periods not to exceed 3 years.

Section 213.3107 Department of the Army

(a)–(c) (Reserved).

(d) *U.S. Military Academy, West Point, New York.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

(e)–(f) (Reserved).

(g) *Defense Language Institute.* (1) All positions (professors, instructors, lecturers) which require proficiency in a foreign language or a knowledge of foreign language teaching methods.

(h) *Army War College, Carlisle Barracks, PA.* (1) Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

(i) (Reserved).

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.* (1) Positions of Academic Director, Department Head, and Instructor.

(k) *U.S. Army Command and General Staff College, Fort Leavenworth, Kansas.* (1) Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4, or 5-year increments indefinitely thereafter.

Section 213.3108 Department of the Navy

(a) General. (1)–(14) (Reserved).

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(16) All positions necessary for the administration and maintenance of the official residence of the Vice President.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and social counselors at the Naval Academy.

(c) *Chief of Naval Operations.* (1) One position at grade GS-12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e) *Pacific Missile Range Facility, Barking Sands, Hawaii.* (1) All positions. This authority applies only to positions that must be filled pending final decision on contracting of Facility operations. No new appointments may be made under this authority after July 29, 1988.

(f) (Reserved).

(g) *Office of Naval Research.* (1) Scientific and technical positions, GS/GM-13/15, in the Office of Naval Research Asian Office in Tokyo, Japan, which covers East Asia, New Zealand and Australia. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

Section 213.3109 Department of the Air Force

(a) *Office of the Secretary.* (1) One Special Assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Ninety-five positions engaged in interdepartmental defense projects involving scientific and technical evaluations.

(c) Not to exceed 20 professional positions, GS-11 through GS-15, in Detachments 6 and 51, SM-ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

(d) *U.S. Air Force Academy, Colorado.* (1) (Reserved).

(2) Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

(e) (Reserved).

(f) *Air Force Office of Special Investigations*. (1) Not to exceed 250 positions of Criminal Investigators/Intelligence Research Specialists, GS-5 through GS-15.

(g) Not to exceed eight positions, GS-12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

(h) *Air University, Maxwell Air Force Base, Alabama*. (1) Positions of Professor, Instructor, or Lecturer.

(i) *Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio*. (1) Civilian deans and professors.

(j) *Air Force Logistics Command*. (1) One Supervisory Logistics Management Specialist, GM-346-14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

(k) One position of Supervisory Logistics Management Specialist, GS-346-15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

(l) One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

Section 213.3110 Department of Justice

(a) *General*. (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2)-(4) (Reserved).

(5) Two positions above GS-15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(6) Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries. Initial appointments under this authority may not exceed 2 years, but may be extended for an additional period not to exceed 2 years.

(b) *Immigration and Naturalization Service*. (1) (Reserved).

(2) Not to exceed 500 positions of interpreters and language specialists, GS-1040-5/9.

(3) Not to exceed 25 positions, GS-15 and below, with proficiency in speaking, reading, and writing the

Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, Russia.

(c) *Drug Enforcement Administration*. (1) (Reserved).

(2) Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS-132 series, grades GS-9 through GS-15.

(3) Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS-7/11.

(d) *National Drug Intelligence Center*. All positions.

Section 213.3112 Department of the Interior

(a) *General*. (1) Technical, maintenance, and clerical positions at or below grades GS-7, WG-10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

(4) Temporary, intermittent, or seasonal field assistants at GS-7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority may not exceed 180 working days a year.

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior

and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Temporary, intermittent, or seasonal positions at GS-7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(9) Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

(12) Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

(b) (Reserved).

(c) *Indian Arts and Crafts Board*. (1) The Executive Director.

(d) (Reserved).

(e) *Office of the Assistant Secretary, Territorial and International Affairs*. (1) (Reserved).

(2) Not to exceed four positions of Territorial Management Interns, grades GS-5, GS-7, or GS-9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months.

(3) (Reserved).

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional,

technical, and scientific duties as members of his or her immediate staff.

(f) *National Park Service.* (1–2) (Reserved).

(3) Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

(4) One Special Representative of the Director.

(5) All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, that such employment may, with prior approval of OPM, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

Section 213.3113 Department of Agriculture

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

(2)–(4) (Reserved).

(5) Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services;

agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided*, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of § 213.3102 or positions within the Forest Service.

(6) (Reserved).

(7) Not to exceed 34 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1985.

(b)–(c) (Reserved).

(d) *Farm Service Agency.* (1) (Reserved).

(2) Members of State Committees: *Provided*, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

(e) *Rural Development.* (1) (Reserved).

(2) County committeemen to consider, recommend, and advise with respect to the Rural Development program.

(3) Temporary positions whose principal duties involve the making and servicing of natural disaster emergency loans pursuant to current statutes authorizing natural disaster emergency loans. Appointments under this provision shall not exceed 1 year unless extended for one additional period not to exceed 1 year, but may, with prior approval of OPM be further extended for additional periods not to exceed 1 year each.

(4)–(5) (Reserved).

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

(2) Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

(3) Milk Market Administrators.

(4) All positions on the staffs of the Milk Market Administrators.

(g)–(k) (Reserved).

(l) *Food Safety and Inspection Service.* (1)–(2) (Reserved).

(3) Positions of meat and poultry inspectors (veterinarians at GS–11 and below and nonveterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Grain Inspection, Packers and Stockyards Administration.* (1) One hundred and fifty positions of Agricultural Commodity Aid (Grain),

GS-2/4; 100 positions of Agricultural Commodity Technician (Grain), GS-4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS-5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

(n) *Alternative Agricultural Research and Commercialization Corporation*. (1) Executive Director.

Section 213.3114 Department of Commerce

(a) *General*. (1)–(2) (Reserved).

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

(b) (Reserved).

(c) One position above GS-15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

(d) *Bureau of the Census*. (1) Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census.

(2) Current Program Interviewers employed in the field service.

(e)–(h) (Reserved).

(i) *Office of the Under Secretary for International Trade*. (1) Fifteen positions at GS-12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for an individual appointee.

(2) (Reserved).

(3) Not to exceed 15 positions in grades GS-12 through GS-15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in

Domestic Business matters.

Appointments under this authority may be made for a period of not to exceed 2 years and may, with prior approval of OPM, be extended for an additional period of 2 years.

(j) *National Oceanic and Atmospheric Administration*. (1)–(2) (Reserved).

(3) All civilian positions on vessels operated by the National Ocean Service.

(4) Temporary positions required in connection with the surveying operations of the field service of the National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

(k) (Reserved).

(l) *National Telecommunication and Information Administration*. (1) Seventeen professional positions in grades GS-13 through GS-15.

Section 213.3115 Department of Labor

(a) *Office of the Secretary*. (1) Chairman and five members, Employees' Compensation Appeals Board.

(2) Chairman and eight members, Benefits Review Board.

(b)–(c) (Reserved).

(d) *Employment and Training Administration*. (1) Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS-7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

Section 213.3116 Department of Health and Human Services

(a) (Reserved).

(b) *Public Health Service*. (1) (Reserved).

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) (Reserved).

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5)–(6) (Reserved).

(7) Not to exceed 50 positions associated with health screening programs for refugees.

(8) All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term "Indian."

(9) (Reserved).

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(11)–(14) (Reserved).

(15) Not to exceed 200 staff positions, GS-15 and below, in the Immigration Health Service, for an emergency staff to provide health related services to foreign entrants.

(c)–(e) (Reserved).

(f) *The President's Council on Physical Fitness*. (1) Four staff assistants.

Section 213.3117 Department of Education

(a) Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Section 213.3121 Corporation for National and Community Service

(a) All positions on the staff of the Corporation for National Community Service. No new appointments may be made under this authority after September 30, 1995.

Section 213.3124 Board of Governors, Federal Reserve System

(a) All positions.

Section 213.3127 Department of Veterans Affairs

(a) *Construction Division*. (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 400 positions of rehabilitation counselors, GS-3 through GS-11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

(c) *Board of Veterans' Appeals*. (1) Positions, GS-15, when filled by a member of the Board. Except as provided by section 201(d) of Public

Law 100-687, appointments under this authority shall be for a term of 9 years, and may be renewed.

(2) Positions, GS-15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

(d) Not to exceed 600 positions at grades GS-3 through GS-11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

Section 213.3128 U.S. Information Agency

(a) *Office of Congressional and Public Liaison.* (1) Two positions of Liaison Officer (Congressional), GS-14.

(b) Five positions of Supervisory International Exchange Officer (Reception Center Director), GS-13 and GS-14, located in USIA's field offices of New Orleans, New York, Miami, San Francisco, and Honolulu. Initial appointments will not exceed December 31 of the calendar year in which appointment is made with extensions permitted up to a maximum period of 4 years.

Section 213.3129 Thrift Depositor Protection Oversight Board

(a) All positions. No new appointments may be made under this authority after December 31, 1995.

Section 213.3132 Small Business Administration

(a) When the President under 42 U.S.C. 1855-1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) When the President under 42 U.S.C. 1855-1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate

of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

Section 213.3133 Federal Deposit Insurance Corporation

(a)-(b) (Reserved).

(c) Temporary positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions. New appointments may be made under this authority only during the 60 days immediately following the institution's closing date. Such appointments may not exceed 1 year, but may be extended for not to exceed 1 additional year.

Section 213.3136 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Positions when filled by member-residents of the Home.

Section 213.3138 Federal Communications Commission

(a) Fifteen positions of Telecommunications Policy Analyst, GS-301-13/14/15. Initial appointment to these positions will be for a period of not to exceed 2 years with provision for two 1-year extensions. No new appointments may be made under this authority after May 31, 1998.

Section 213.3142 Export-Import Bank of the United States

(a) One Special Assistant to the Board of Directors, grade GS-14 and above.

Section 213.3146 Selective Service System

(a) State Directors.

Section 213.3148 National Aeronautics and Space Administration

(a) One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

Section 213.3155 Social Security Administration

(a) Six positions of Social Insurance Representative in the district offices of

the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(b) Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(c) Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

Section 213.3162 The President's Crime Prevention Council

(a) Up to 7 positions established in the President's Crime Prevention Council office created by the Violent Crime Control and Law Enforcement Act of 1994. No new appointments may be made under this authority after March 31, 1998.

Section 213.3165 Chemical Safety and Hazard Investigation Board

(a) Up to 30 positions established to create the Chemical Safety and Hazard Investigation Board. No new appointments may be made under this authority after December 31, 1998.

Section 213.3174 Smithsonian Institution

(a) (Reserved).

(b) All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

(c) Positions at GS-15 and below in the National Museum of the American Indian requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

Section 213.3175 Woodrow Wilson International Center for Scholars

(a) One East Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, and one Social Science Program Administrator.

Section 213.3178 Community Development Financial Institutions Fund

(a) All positions in the Fund and positions created for the purpose of establishing the Fund's operations in accordance with the Community Development Banking and Financial Institutions Act of 1994, except for any positions required by the Act to be filled by competitive appointment. No new appointments may be made under this authority after September 23, 1998.

Section 213.3180 Utah Reclamation and Conservation Commission

(a) Executive Director.

Section 213.3182 National Foundation on the Arts and the Humanities

(a) *National Endowment for the Arts.*

(1) One position of Assistant Director, Artists-in-Education Programs, Office of Partnerships.

(2) One position of Assistant Director for State Programs.

(3) One position of Director of Literature Programs.

(4) One position of Assistant Director of Theater Programs.

(5) One position of Director of Folk Arts Programs.

(6) One position of Director, Opera/Musical Theater Programs.

(7) One position of Assistant Director of Opera/Musical Theater Programs.

(8) One position of Assistant Director of Literature Programs.

(9) One position of Director of Locals Test Programs, Office of the Deputy to the Chairman for Public Partnership.

(10) One position of Deputy Chairman for Public Partnership.

(11) Four Project Evaluators.

(12) One position of Director of Museum Programs.

(13) One position of Assistant Director of Folk Arts, Office of the Deputy Chairman for Programs.

(14) One position of Assistant Director of Music Programs.

(15) One position of Director of Expansion Arts Programs.

(16) One position of Director of Media Arts Programs.

(17) One position of Director, Challenge and Advancement Grant Program.

(18) One position of Assistant Director, Challenge and Advancement Grant Program.

(19) One position of Art Specialist, International Programs.

(20) One position of Director of Inter Arts Program.

(21) One position of Assistant Director of Expansion of Arts Programs.

(22) One position of Assistant Director of Media Arts Programs.

(23) One position of Assistant Director of Design Arts Program.

(24) One position of Assistant Director of Dance Programs.

(25) One position of Assistant Director of Visual Arts Programs.

(26) One position of Assistant Director of Museum Programs.

(27)–(29) (Reserved).

(30) One position of Director of Education Programs.

(31) One position of Director of Music Programs.

(32) One position of Director of Theater Programs.

(33) One position of Director of Dance Programs.

(34) One position of Director of Visual Arts Programs.

(35) One position of Director of Design Arts Program.

(36) (Reserved).

(37) One Director for State Programs.

(38) One Director for Artists-in-Education Programs.

(39) One position of Assistant Director of Inter-Arts Program.

(40) One position of Assistant Director of the International Program.

Section 213.3191 Office of Personnel Management

(a)–(c) (Reserved).

(d) Part-time and intermittent positions of test examiners at grades GS–8 and below.

Section 213.3194 Department of Transportation

(a) *U.S. Coast Guard.* (1) (Reserved).

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut.

(b)–(d) (Reserved).

(e) *Maritime Administration.* (1)–(2) (Reserved).

(3) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(4)–(5) (Reserved).

(6) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

(7) U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

(f) Two positions above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect until April 15, 1998.

Section 213.3195 Federal Emergency Management Agency

(a) Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

(b) Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

(c) Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

(d) One position above GS–15 in support of the President's Commission on Critical Infrastructure Protection. This authority remains in effect for six months after termination of the Commission.

Section 213.3199 Temporary Organizations

(a) Positions on the staffs of temporary boards and commissions which are

established by law or Executive order for specified periods not to exceed 4 years to perform specific projects. A temporary board or commission originally established for less than 4 years and subsequently extended may continue to fill its staff positions under this authority as long as its total life, including extension(s), does not exceed 4 years. No board or commission may use this authority for more than 4 years to make appointments and position changes unless prior approval of the Office is obtained.

(b) Positions on the staffs of temporary organizations established within continuing agencies when all of the following conditions are met: (1) The temporary organization is established by an authority outside the agency, usually by law or Executive order; (2) the temporary organization is established for an initial period of 4 years or less and, if subsequently extended, its total life including extension(s) will not exceed 4 years; (3) the work to be performed by the temporary organization is outside the agency's continuing responsibilities; and (4) the positions filled under this authority are those for which other staffing resources or authorities are not available within the agency. An agency may use this authority to fill positions in organizations which do not meet all of the above conditions or to make appointments and position changes in a single organization during a period longer than 4 years only with prior approval of the Office.

Schedule B

Section 213.3202 Entire Executive Civil Service

(a) *Student Educational Employment Program—Student Temporary Employment Program.* (1) Students may be appointed to the Student Temporary Employment Program if they are pursuing any of the following educational programs:

- (i) High School Diploma or General Equivalency Diploma (GED);
- (ii) Vocational/Technical certificate;
- (iii) Associate degree;
- (iv) Baccalaureate degree;
- (v) Graduate degree; or
- (vi) Professional degree

* * * * *

[The remaining text of provisions pertaining to the Student Temporary Employment Program can be found in 5 CFR 213.3202(a).]

(b) *Student Educational Employment Program—Student Career Experience Program.* (1)(i) Students may be appointed to the Student Career Experience Program if they are pursuing

any of the following educational programs:

- (A) High school diploma or General Equivalency Diploma (GED);
- (B) Vocational/Technical certificate;
- (C) Associate degree;
- (D) Baccalaureate degree;
- (E) Graduate degree; or
- (F) Professional degree.

(ii) Student participants in the Harry S. Truman Foundation Scholarship Program under the provision of Public Law 93-842 are eligible for appointments under the Student Career Experience Program.

[The remaining text of provisions pertaining to the Student Career Experience Program can be found in 5 CFR 213.3202(b).]

* * * * *

(c)-(i) (Reserved).

(j) Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM. A Federal agency may make new appointments under this authority for any period of employment not exceeding 3 years for one individual.

(k) Positions at grades GS-15 and below when filled by individuals who: (1) are placed at a severe disadvantage in obtaining employment because of a psychiatric disability evidenced by hospitalization or outpatient treatment and have had a significant period of substantially disrupted employment because of the disability; and (2) are certified to a specific position by a State vocational rehabilitation counselor or a Veterans Administration counseling psychologist (or psychiatrist) who indicates that they meet the severe disadvantage criteria stated above, that they are capable of functioning in the positions to which they will be appointed, and that any residual disability is not job related. Employment of any individual under this authority may not exceed 2 years following each significant period of mental illness.

(l) (Reserved).

(m) Positions when filled under any of the following conditions: (1) Appointment at grades GS-15 and above, or equivalent, in the same or a different agency without a break in service from a career appointment in the Senior Executive Service (SES) of an individual who:

- (i) Has completed the SES probationary period;
- (ii) Has been removed from the SES because of less than fully successful executive performance or a reduction in force; and

(iii) Is entitled to be placed in another civil service position under 5 U.S.C. 3594(b).

(2) Appointment in a different agency without a break in service of an individual originally appointed under paragraph (m)(1).

(3) Reassignment, promotion, or demotion within the same agency of an individual appointed under this authority.

Section 213.3203 Executive Office of the President

(a) (Reserved).

(b) *Office of the Special Representative for Trade Negotiations.*

(1) Seventeen positions of economist at grades GS-12 through GS-15.

Section 213.3204 Department of State

(a)-(c) (Reserved).

(d) Fourteen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

(e) (Reserved).

(f) Scientific, professional, and technical positions at grades GS-12 to GS-15 when filled by persons having special qualifications in foreign policy matters. Total employment under this authority may not exceed 4 years.

Section 213.3205 Department of the Treasury

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) Not to exceed 10 positions engaged in functions mandated by Public Law 99-190, the duties of which require expertise and knowledge gained as a present or former employee of the Synthetic Fuels Corporation, as an employee of an organization carrying out projects or contacts for the Corporation, or as an employee of a Government agency involved in the Synthetic Fuels Program. Appointments under this authority may not exceed 4 years.

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS-13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employment under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM. Service under this authority may not exceed (1) a total of 4 years; or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever comes first.

Section 213.3206 Department of Defense

(a) *Office of the Secretary.* (1) (Reserved).

(2) Professional positions at GS-11 through GS-15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3)-(4) (Reserved).

(5) Four Net Assessment Analysts.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

(2) Eight positions, GS-15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

(c) *National Defense University.* (1) Sixty-one positions of Professor, GS-13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

(d) *General.* (1) One position of Law Enforcement Liaison Officer (Drugs), GS-301-15, U.S. European Command.

(2) Acquisition positions at grades GS-5 through GS-11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

(e) *Office of the Inspector General.* (1) Positions of Criminal Investigator, GS-1811-5/15.

(f) *Department of Defense Polygraph Institute, Fort McClellan, Alabama.* (1) One Director, GM-15.

Section 213.3207 Department of the Army

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

Section 213.3208 Department of the Navy

(a) *Naval Underwater Systems Center, New London, Connecticut.* (1) One position of Oceanographer, grade GS-14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

(b) All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

(c) One Director and four Research Psychologists at the professor or GS-15 level in the Defense Personnel Security Research and Education Center.

(d) All civilian professor positions at the Marine Corps Command and Staff College.

(e) One position of Staff Assistant, GS-301-14, whose incumbent will manage the Navy's Executive Dining facilities at the Pentagon.

(f) One position of Housing Management Specialist, GM-1173-14, involved with the Bachelor Quarters Management Study. No new appointments may be made under this authority after February 29, 1992.

Section 213.3209 Department of the Air Force

(a) Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force. Initial appointments are made not to exceed 3 years, with an option to renew or extend the appointments in increments of 1, 2, or 3 years indefinitely thereafter.

(b) (Reserved).

(c) One Director of Instruction and 14 civilian instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period, which may be followed by an appointment of indefinite duration.

(d) Positions of Instructor or professional academic staff at the Air University, associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

(e) One position of Director of Development and Alumni Programs, GS-301-13, with the U.S. Air Force Academy, Colorado.

Section 213.3210 Department of Justice

(a) Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS-5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

(b) (Reserved).

(c) Not to exceed 400 positions at grades GS-5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime.

(d) (Reserved).

(e) Positions, other than secretarial, GS-6 through GS-15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

Section 213.3213 Department of Agriculture

(a) *Foreign Agricultural Service.* (1) Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

(b) *General.* (1) Temporary positions of professional Research Scientists, GS-15 or below, in the Agricultural Research Service and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Personnel Officer, Agricultural Research Service, or the Personnel Officer, Forest Service.

(2) Not to exceed 55 Executive Director positions, GM-301-14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

Section 213.3214 Department of Commerce

(a) *Bureau of the Census.* (1) (Reserved).

(2) Not to exceed 50 Community Services Specialist positions at the equivalent of GS-5 through GS-12.

(3) Not to exceed 300 Community Awareness Specialist positions at the equivalent of GS-7 through GS-12. Employment under this authority may not exceed December 31, 1992. (b)-(c) (Reserved).

(d) *National Telecommunications and Information Administration.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS-11 through 15. Employment under this authority may not exceed 2 years.

Section 213.3215 Department of Labor

(a) Chairman, two Members, and one Alternate Member, Administrative Review Board.

(b) (Reserved).

(c) *Bureau of International Labor Affairs.* (1) Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

Section 213.3217 Department of Education

(a) Seventy-five positions, not in excess of GS-13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in midcareer development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program. Employment under this authority shall not exceed 1 year.

(b) Fifty positions, GS-7 through GS-11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the

prior approval of the Office of Personnel Management, be extended for an additional period of 1 year.

Section 213.3221 Corporation for National and Community Service

(a) Not to exceed 25 positions of Program Specialist at grades GS-9 through GS-15 in the Department of the Executive Director.

(b) Three positions of Program Specialist at grades GS-7 through GS-15 in the Department of the Executive Director.

Section 213.3227 Department of Veterans Affairs

(a) Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS-11 and above in the medical research program.

(b) Not to exceed 25 Criminal Investigator (Undercover) positions, GS-1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration supervised by the VA, Office of Inspector General. Initial appointments shall be greater than 1 year, but not to exceed 4 years and may be extended indefinitely in 1-year increments.

Section 213.3228 U.S. Information Agency

(a) *Voice of America.* (1) Not to exceed 200 positions at grades GS-15 and below in the Cuba Service. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

Section 213.3236 U.S. Soldiers' and Airmen's Home

(a) (Reserved).

(b) Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

Section 213.3240 National Archives and Records Administration

(a) Executive Director, National Historical Publications and Records Commission.

Section 213.3248 National Aeronautics and Space Administration

(a) Not to exceed 40 positions of Command Pilot, Pilot, and Mission Specialist candidates at grades GS-7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

Section 213.3264 U.S. Arms Control and Disarmament Agency

(a) Twenty-five scientific, professional, and technical positions at grades GS-12 through GS-15 when filled by persons having special qualifications in the fields of foreign policy, foreign affairs, arms control, and related fields. Total employment under this authority may not exceed 4 years.

Section 213.3274 Smithsonian Institution

(a) (Reserved).

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS-9 through GS-15.

Section 213.3276 Appalachian Regional Commission

(a) Two Program Coordinators.

Section 213.3278 Armed Forces Retirement Home

(a) *Naval Home, Gulfport, Mississippi.* (1) One Resource Management Officer position and one Public Works Officer position, GS/GM-15 and below.

Section 213.3282 National Foundation on the Arts and the Humanities

(a) (Reserved).

(b) *National Endowment for the Humanities.* (1) Professional positions at grades GS-11 through GS-15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require indepth knowledge of a discipline of the humanities.

Section 213.3285 Pennsylvania Avenue Development Corporation

(a) One position of Civil Engineer (Construction Manager).

Section 213.3291 Office of Personnel Management

(a) Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS-13 and GS-14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

(b) Twelve positions of faculty members at grades GS-13 through 15, at the Federal Executive Institute. Initial appointments under this authority may be made for any period up to 3 years and may be extended in 1-, 2-, or 3-year increments indefinitely thereafter.

Schedule C**(Grades 5 Through 15)***Section 213.3303 Executive Office of the President*

Council of Economic Advisers

CEA 1 Secretary to the Chairman

CEA 4 Secretary to the Chairman

CEA 5 Secretary to a Council Member

CEA 6 Secretary to a Council Member

Council on Environmental Quality

CEQ 8 Special Assistant to the Chair

CEQ 9 Special Assistant to the Chair

for Outreach and Strategic Planning

CEQ 10 Special Assistant to the Chair,

Council on Environmental Quality

CEQ 11 Associate Director for

Communications to the Chair, Council

on Environmental Quality

Office of Management and Budget

OMB 80 Executive Assistant to the

Deputy Director

OMB 92 Confidential Assistant to the

Associate Director for Legislative

Reference and Administration

OMB 97 Confidential Assistant to the

Administrator, Office of Information

and Regulatory Affairs

OMB 102 Special Assistant to the

Director

OMB 107 Writer-Editor to the

Associate Director for

Communications

OMB 108 Staff Assistant to the

Executive Associate Director

OMB 110 Confidential Assistant to the

Executive Associate Director

OMB 115 Confidential Assistant to the

Associate Director for General

Government and Finance

OMB 117 Confidential Assistant to the

Associate Director, Health/Personnel

OMB 118 Special Assistant to the

Controller

OMB 119 Confidential Assistant to the

Associate Director, National Security

and International Affairs

OMB 120 Confidential Assistant to the

Associate Director, for Natural

Resources, Energy and Science

OMB 121 Staff Assistant to the

Director

Office of National Drug Control Policy

ONDCP 78 Staff Assistant to the Chief

of Staff

ONDCP 82 Legislative Analyst to the

Director, Office of Public Affairs and

Legislative Affairs

ONDCP 83 Director, Public Affairs to

the Director, Public and Legislative

Affairs

ONDCP 86 Confidential Assistant to

the Director

ONDCP 87 Confidential Secretary to

the Deputy Director

ONDCP 88 Writer-Editor to the

Director

ONDCP 90 Research Assistant to the

Director, Strategic Planning

ONDCP 91 Executive Assistant to the

Chief of Staff

ONDCP 93 Staff Assistant to the

Director

ONDCP 95 Executive Assistant to the

Deputy Director

ONDCP 96 Events Assistant to the

Director

ONDCP 97 Events Manager to the

Director

ONDCP 98 Staff Assistant to the Chief

of Staff

ONDCP 99 Staff Assistant to the

Director

ONDCP 100 Press Relations Assistant

(Typing) to the Chief of Press

Relations, Office of Public Affairs

Office of Science and Technology Policy

OSTP 18 Special Assistant to the

Director

OSTP 19 Executive Assistant for

Policy and Intergovernmental Affairs

to the Director

OSTP 21 Confidential Assistant to the

Associate Director, Technology

Division

OSTP 22 Confidential Assistant to the

Associate Director for Environment

OSTP 26 Chief of Staff to the Director

Office of the United States Trade

Representative

USTR 56 Confidential Assistant to the

Deputy United States Trade

Representative

USTR 62 Private Sector Liaison to the

Assistant United States Trade

Representative for Public Liaison

USTR 63 Confidential Assistant to the

Chief of Staff

USTR 66 Congressional Affairs

Specialist to the Assistant United

States Trade Representative for

Congressional Affairs

Official Residence of the Vice President

ORVP 1 Special Assistant, Official

Residence of the Vice President to the

Chief of Staff to Mrs. Gore

President's Commission on White

House Fellowships

PCWHF 7 Education Director to the

Director, President's Commission on

White House Fellowships

PCWHF 10 Special Assistant to the

Director, Presidential Commission on

White House Fellowships

PCWHF 12 Special Assistant to the

Director, President's Commission on

White House Fellowships

Section 213.3304 Department of State

ST 220 Special Assistant to the

Assistant Secretary, Bureau of Public

Affairs

ST 221 Staff Assistant to the Deputy

Assistant Secretary, Bureau of

Legislative Affairs

ST 329 Staff Assistant to the Deputy

Secretary of State

ST 330 Special Assistant to the Senior

Advisor to the Secretary and White

House Liaison

ST 359 Legislative Officer to the Under

Secretary for Management

ST 374 Special Assistant to the United

States Permanent Representative to

the Organization of American States,

Bureau of Inter-American Affairs

ST 393 Legislative Management

Officer to the Deputy Assistant

Secretary, Bureau of Legislative

Affairs

ST 399 Confidential Assistant to the

Secretary of State

ST 400 Deputy Assistant Secretary to

the Assistant Secretary, Economic and

Business Affairs

ST 402 Special Assistant to the Deputy

Assistant Secretary, Bureau of Inter-

American Affairs

ST 405 Supervisory Protocol Officer

(Visits) to the Foreign Affairs Officer

(Visits)

ST 406 Secretary (Typing) to the

Assistant Secretary, Bureau of

Economic and Business Affairs

ST 411 Protocol Officer to the

Supervisory Protocol Officer

ST 416 Protocol Officer (Visits) to the

Supervisory Protocol Officer for Visits

ST 426 Secretary (Steno) to the

Assistant Secretary, Bureau of Human

Rights and Humanitarian Affairs

ST 429 Special Assistant to the

Director, Foreign Service Institute

ST 433 Correspondence Officer to the

Assistant Secretary, Bureau of

Legislative Affairs

ST 445 Foreign Affairs Officer to the

Deputy Assistant Secretary for Public

Affairs/Chief Speechwriter

ST 449 Special Assistant to the

Assistant Secretary, Bureau of

International Narcotics Matters

ST 451 Special Assistant to the

Ambassador-at-Large

ST 460 Staff Assistant to the Chief of

Staff

ST 461 Senior Advisor to the Director,

Policy Planning Staff

ST 465 Special Assistant to the

Secretary of State

ST 467 Foreign Affairs Officer to the

Deputy Chief of Protocol

ST 468 Protocol Assistant to the

Foreign Affairs Officer

ST 471 Special Assistant to the Legal

Advisor, Office of the Legal Advisor

ST 475 Special Assistant to the Deputy

Assistant Secretary, Bureau for

International Narcotics and Law

Enforcement Affairs

- ST 478 Special Coordinator to the Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor
- ST 479 Resources, Plans and Policy Advisor to the Director, Plans and Policy
- ST 480 Legislative Management Officer to the Under Secretary, for Management
- ST 483 Foreign Affairs Officer to the Deputy Director, Office of Policy Planning
- ST 484 Legislative Management Officer to the Assistant Secretary
- ST 485 Member Policy Planning Staff to the Director
- ST 490 Special Assistant to the Assistant Secretary, Bureau of International Organization Affairs
- ST 491 Policy Advisor to the Assistant Secretary, Bureau of European and Canadian Affairs
- ST 492 Senior Advisor to the Assistant Secretary, Bureau of South Asian Affairs
- ST 493 Resources, Plans and Policy Advisor to the Director, Office of Resources, Plans and Policy
- ST 494 Foreign-Affairs Officer to the Deputy Secretary of State
- ST 495 Senior Coordinator for Democracy Coordination to the Assistant Secretary, Bureau of Democracy, Human Rights and Labor
- ST 497 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
- ST 498 Legislative Management Officer to the Deputy Assistant Secretary, Bureau of Legislative Affairs
- ST 499 Special Assistant to the Assistant Secretary, Bureau of Consular Affairs
- ST 500 Staff Assistant to the Special Coordinator for Cyprus
- ST 501 Special Assistant to the Chairman, International Joint Commission
- ST 502 Senior Advisor to the Deputy Assistant Secretary, Bureau for International Narcotics and Law Enforcement Affairs
- ST 507 Secretary (Typing) to the Legal Advisor
- ST 508 Deputy Assistant Secretary to the Assistant Secretary, Bureau of International Organizations Affairs
- ST 509 Deputy Assistant Secretary to the Assistant Secretary, Bureau of International Organization Affairs
- ST 510 Special Assistant to the Ambassador-at-Large
- ST 511 Special Assistant to the Legal Advisor
- ST 512 Special Assistant to the Deputy Director
- ST 513 Special Assistant to the Assistant Secretary, Bureau of Economic and Business Affairs
- ST 514 Protocol Specialist to the Chief of Protocol
- ST 516 Foreign Affairs Officer to the Deputy Director
- ST 517 Special Assistant to the Under Secretary for Economics, Business and Agricultural Affairs
- ST 518 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 519 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 520 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 521 Staff Assistant to the Chief of Staff, Office of the Secretary
- ST 522 Special Assistant to the Assistant Secretary, Bureau of African Affairs
- ST 523 Public Affairs Specialist to the Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor
- ST 524 Special Assistant to the Assistant Secretary, Bureau of African Affairs
- ST 525 Staff Assistant to the Deputy Assistant Secretary for Strategic Planning
- ST 526 Special Assistant to the Deputy Assistant Secretary, Bureau of Public Affairs
- ST 527 Staff Assistant to the Deputy Assistant Secretary, Bureau of Administration
- ST 528 Foreign Affairs Officer to the Deputy Chief of Protocol
- ST 529 Senior Advisor to the Under Secretary for Economic, Business and Agricultural Affairs
- ST 530 Special Assistant to the Assistant Secretary, Bureau of Asian and Pacific Affairs
- ST 531 Staff Assistant to the Senior Advisor to the Secretary and White House Liaison
- ST 532 Protocol Assistant to the Deputy Chief of Protocol
- ST 533 Staff Assistant to the Ambassador-at-Large
- ST 534 Special Advisor to the Under Secretary for Economic, Business and Agricultural Affairs
- ST 535 Special Assistant to the Women's Coordinator
- International Boundary and Water Commission, United States and Mexico
- IBWC 1 Confidential Assistant (OA) to the Commissioner, United States Section, International Boundary and Water Commission, United States and Mexico
- Section 213.3305 Department of the Treasury*
- TREA 139 Director, Scheduling and Advance to the Chief of Staff
- TREA 170 Assistant Director, Travel and Special Events Services to the Director, Administrative Operations Division
- TREA 213 Special Assistant to the Assistant Secretary for Legislative Affairs and Public Liaison
- TREA 230 Public Affairs Specialist to the Senior Advisor and Director, Office of Public Affairs
- TREA 244 Administrative Assistant to the Director, Office of Thrift Supervision
- TREA 250 Senior Advisor and Director, Office of Public Affairs to the Deputy Assistant Secretary
- TREA 254 Deputy Executive Secretary for Policy Analysis to the Executive Secretary
- TREA 277 Public Affairs Specialist to the Assistant Secretary for Public Affairs
- TREA 284 Director, Office of Public and Business Liaison to the Deputy Assistant Secretary (Public Liaison)
- TREA 316 Public Affairs Specialist to the Director, Office of Public Affairs
- TREA 317 Public Affairs Specialist to the Director of Public Affairs
- TREA 318 Legislative Analyst to the Director, Office of Legislative Affairs
- TREA 334 Staff Assistant to the Under Secretary (Enforcement)
- TREA 336 Director, Administrative Operations Division to the Deputy Assistant Secretary (Administration)
- TREA 338 Deputy Director for Advance to the Director of Scheduling and Advance
- TREA 342 Deputy Treasurer of the United States to the Treasurer of the United States
- TREA 345 Policy Advisor to the Assistant Secretary (Enforcement)
- TREA 351 Public Affairs Specialist and Advisor to the Under Secretary for Enforcement to the Director, Office of Public Affairs
- TREA 356 Policy Advisor to the Deputy Under Secretary, Government Financial Policy
- TREA 357 Director, Office of Public Correspondence to the Executive Secretary
- TREA 364 Special Assistant to the Under Secretary for Domestic Finance
- TREA 368 Special Assistant to the Deputy Secretary of the Treasury
- TREA 372 Special Assistant to the Assistant Secretary (Financial Markets)
- TREA 373 Senior Advisor to the Under Secretary of International Affairs
- TREA 375 Senior Advisor, Public Affairs to the Director of the U.S. Mint

- TREA 378 Senior Advisor to the Assistant Secretary for Enforcement
- TREA 379 Special Assistant to the Chief of Staff
- TREA 380 Special Assistant to the Assistant Secretary (Legislative Affairs and Public Liaison)
- TREA 381 Legislative Analyst to the Director, Office of Legislative Affairs
- TREA 382 Staff Assistant to the Assistant Secretary (International Affairs)
- TREA 384 Staff Assistant to the Chief of Staff
- TREA 386 Enforcement Policy Advisor to the Director, Office of Policy Development/(Senior Advisor to the Assistant Secretary (Enforcement))
- TREA 387 Enforcement Policy Advisor to the Director, Office of Policy Development (Senior Advisor to the Assistant Secretary (Enforcement))
- TREA 388 Confidential Staff Assistant to the Deputy Secretary of Treasury
- TREA 389 Economist to the Deputy Secretary of the Treasury
- TREA 391 Associate Director of Scheduling to the Director, Scheduling and Advance
- TREA 393 Attorney-Advisor to the General Counsel
- TREA 394 Executive Secretary to the Chief of Staff
- TREA 395 Deputy Executive Secretary for Policy Coordination to the Executive Secretary
- TREA 396 Director, Public and Business Liaison to the Deputy Assistant Secretary for Public Liaison
- TREA 397 Senior Deputy to the Assistant Secretary, Legislative Affairs and Public Liaison
- TREA 398 Senior Advisor to the Assistant Secretary Financial Markets
- TREA 399 Assistant to the Commissioner, Internal Revenue Service
- TREA 400 Special Assistant to the Assistant Secretary for Management and Chief Financial Officer
- Section 213.3306 Department of Defense*
- DOD 22 Personal and Confidential Assistant to the Assistant to the Secretary of Defense for Atomic Energy
- DOD 24 Chauffeur to the Secretary of Defense
- DOD 33 Personal Secretary to the Deputy Secretary of Defense
- DOD 75 Chauffeur to the Deputy Secretary of Defense
- DOD 101 Special Assistant to the Director of Net Assessment
- DOD 271 Private Secretary to the Assistant Secretary of Defense (Reserve Affairs)
- DOD 279 Personal and Confidential Assistant to the Director Operational Test and Evaluation
- DOD 295 Personal and Confidential Assistant to the Under Secretary of Defense for Personnel and Readiness
- DOD 300 Confidential Assistant to the Under Secretary (Acquisition and Technology)
- DOD 317 Confidential Assistant to the Director, Defense Research and Engineering
- DOD 319 Confidential Assistant to the Secretary of Defense
- DOD 321 Executive Assistant to the Assistant to the Vice President for National Security Affairs
- DOD 332 Personal and Confidential Assistant to the Assistant Secretary of Defense (Regional Security)
- DOD 339 Speechwriter to the Special Assistant to the Secretary of Defense for Public Affairs
- DOD 355 Special Assistant for Strategic Modernization to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 368 Personal and Confidential Assistant to the Assistant Secretary of Defense for Legislative Affairs
- DOD 380 Director of Protocol to the Chief of Staff
- DOD 386 Personal and Confidential Assistant to the Assistant Secretary of Defense for Reserve Affairs
- DOD 435 Public Affairs Specialist to the Assistant Secretary of Defense for Public Affairs
- DOD 439 Staff Specialist to the Under Secretary (Acquisition and Technology)
- DOD 440 Personal and Confidential Assistant to the Deputy Under Secretary of Defense for Acquisition Reform
- DOD 449 Staff Specialist to the Assistant to the Secretary of Defense for Public Affairs
- DOD 456 Special Assistant for Family Advocacy and External Affairs to the Deputy Assistant Secretary of Defense, (Prisoner of War/Missing in Action Affairs)
- DOD 457 Staff Assistant to the Deputy Assistant Secretary of Defense (Democracy and Human Rights)
- DOD 459 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
- DOD 464 Defense Fellow to the Deputy Under Secretary for Logistics
- DOD 468 Staff Specialist (International) to the Director, Defense Information Systems Agency
- DOD 471 Defense Fellow to the Deputy Assistant Secretary of Defense (European and NATO Affairs)
- DOD 473 Personal and Confidential Assistant to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict
- DOD 474 Program Analyst to the Deputy Under Secretary (Environmental Security)
- DOD 479 Special Assistant to the Assistant to the Secretary of Defense (Legislative Affairs)
- DOD 480 Executive Assistant to the Assistant Secretary of Defense (Strategy Requirements and Resources)
- DOD 488 Personal and Confidential Assistant to the Under Secretary of Defense (Comptroller)
- DOD 494 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 500 Staff Specialist to the Special Assistant for White House Liaison
- DOD 501 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
- DOD 504 Assistant for Antiterrorism Policy and Programs to the Deputy Assistant Secretary of Defense (Policy and Missions)
- DOD 508 Defense Fellow to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 510 Staff Specialist to the Assistant Secretary of Defense (Legislative Affairs)
- DOD 512 Staff Specialist to the Deputy Under Secretary of Defense for International and Commercial Programs
- DOD 516 Staff Specialist to the Deputy Under Secretary of Defense for Environmental Security
- DOD 519 Private Secretary to the Assistant Secretary of Defense (Regional Security Affairs)
- DOD 534 Confidential Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
- DOD 535 Special Assistant to the Deputy to the Under Secretary of Defense for Policy Support
- DOD 545 Public Affairs Specialist to the Assistant to the Secretary of Defense (Public Affairs)
- DOD 552 Special Assistant to the Assistant Secretary of Defense for Special Operations/Low Intensity Conflict
- DOD 555 Confidential Assistant to the General Counsel, Department of Defense
- DOD 557 Defense Fellow to the Deputy Assistant Secretary of Defense, Humanitarian and Refugee Affairs
- DOD 558 Special Assistant to the Director, Program Analysis and Evaluation
- DOD 559 Confidential Assistant to the Assistant Secretary of Defense, Force Management Policy

- DOD 562 Defense Fellow to the Assistant Secretary of Defense (International Security Affairs)
- DOD 564 Program Analyst to the Deputy Under Secretary (Environmental Secretary)
- DOD 566 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense for Policy
- DOD 570 Personal and Confidential Assistant to the Principal Deputy Under Secretary of Defense (Acquisition and Technology)
- DOD 571 Secretary (OA) to the Inspector General
- DOD 572 Special Assistant to the Inspector General
- DOD 577 Staff Specialist to the Principal Deputy Assistant Secretary of Defense (Legislative Affairs)
- DOD 578 Personal and Confidential Assistant to the Under Secretary of Defense (Policy)
- DOD 580 Defense Fellow to the Deputy Assistant Secretary of Defense, African Affairs
- DOD 581 Associate Director Communications to the Senior Director, Communications, National Security Council
- DOD 582 Foreign Affairs Specialist to the Deputy Assistant Secretary of Defense for Peacekeeping and Humanitarian Assistance
- DOD 583 Speechwriter to the Assistant to the Secretary of Defense for Public Affairs
- DOD 586 Personal and Confidential Assistant to the General Counsel
- DOD 588 Public Affairs Specialist to the Assistant to the Secretary of Defense for Public Affairs
- DOD 592 Program Analyst to the Deputy Assistant Secretary of Defense, Policy and Missions
- DOD 595 Confidential Assistant to the Assistant to the Secretary for Public Affairs
- DOD 597 Staff Specialist to the Deputy Under Secretary for Logistics
- DOD 600 Office Director and Special Coordinator for Cooperative Threat Reduction to the Deputy Assistant Secretary of Defense for Threat Reduction Policy
- DOD 601 Staff Assistant to the Special Assistant for White House Liaison
- DOD 604 Special Assistant for Outreach to the Deputy Under Secretary of Defense (Environmental Security)
- DOD 605 Defense Fellow to the Special Assistant for White House Liaison
- DOD 606 Defense Fellow to the Deputy Assistant Secretary Defense, (Drug Enforcement Policy and Support)
- DOD 607 Staff Specialist to the Assistant to the President/Director, White House Office for Women's Initiative and Outreach, Office of the Secretary
- DOD 609 Private Secretary to the Deputy Secretary of Defense
- DOD 610 Special Assistant to the Assistant Secretary for Health Affairs
- DOD 611 Personal and Confidential Assistant to the Secretary of Defense
- DOD 612 Protocol Officer to the Director of Protocol
- DOD 613 Staff Assistant to the Secretary of Defense
- DOD 614 Staff Assistant to the Chief of Staff to President
- DOD 615 Special Assistant to the Deputy Under Secretary of Defense (Industrial Affairs and Installation)
- DOD 616 Protocol Specialist to the Special Assistant to the Secretary of Defense
- DOD 617 Staff Specialist to the Director, NATO Policy
- DOD 618 Defense Fellows to the Special Assistant for White House Liaison
- DOD 619 Defense Fellow to the Special Assistant for White House Liaison
- DOD 620 Defense Fellow to the Special Assistant for White House Liaison
- DOD 621 Defense Fellow to the Special Assistant for White House Liaison
- DOD 623 Defense Fellow to the Special Assistant for White House Liaison
- DOD 624 Defense Fellow to the Special Assistant for White House Liaison
- DOD 625 Defense Fellow to the Special Assistant for White House Liaison
- DOD 627 International Counterdrug Specialist to the Deputy Assistant Secretary of Defense (Drug Enforcement Policy and Support)
- DOD 628 Defense Fellow to the Special Assistant for White House Liaison
- DOD 629 Special Assistant to the Assistant Secretary, International Security Policy
- DOD 630 Confidential Assistant to the Deputy Secretary of Defense
- DOD 631 Staff Specialist to the Director, NATO Policy
- DOD 632 Director for Community Relations and Communications Strategy to the Assistant Secretary for Public Relations
- DOD 634 Special Assistant to the Assistant Secretary of Defense for Legislative Affairs
- DOD 635 Director of Public Services to the Assistant Secretary of Defense (Reserve Affairs)
- DOD 636 Civilian Executive Assistant to the Chairman, Joint Chiefs of Staff
- DOD 637 Special Assistant for Health Affairs to the Assistant Secretary for Legislative Affairs
- DOD 638 Speechwriter to the Assistant Secretary for Public Affairs
- DOD 639 Staff Specialist to the Deputy Assistant Secretary of Defense, (European and NATO Affairs)
- DOD 640 Staff Specialist to the Assistant Secretary (Strategy and Threat Reduction)
- DOD 641 Staff Specialist to the Deputy Assistant Secretary (Asian and Pacific Affairs)
- DOD 642 Special Assistant to the Project Director, National Partnership for Reinventing Government
- DOD 643 Staff Specialist to the Under Secretary for Acquisition and Technology
- DOD 644 Special Assistant for Health Care Policy to the Assistant Secretary for Legislative Affairs
- DOD 645 Public Affairs Specialist to the Principal Deputy Assistant Secretary of Defense for Public Affairs
- DOD 646 Defense Fellow to the Special Assistant for White House Liaison
- Section 213.3307 Department of the Army (DOD)*
- ARMY 2 Personal and Confidential Assistant to the Under Secretary of the Army
- ARMY 5 Secretary (Stenography/Office Automation) to the Assistant Secretary of the Army (Installations, Logistics and Environment)
- ARMY 6 Secretary (Office Automation) to the Assistant Secretary of the Army (Research, Development and Acquisition)
- ARMY 17 Secretary (Office Automation) to the Assistant Secretary of the Army (Civil Works)
- ARMY 21 Secretary (Steno/OA) to the General Counsel
- ARMY 55 Secretary (Office Automation) to the Assistant Secretary of the Army (Financial Management)
- ARMY 73 Staff Assistant for Policy to the Secretary of the Army
- ARMY 75 Special Assistant (Civilian Aide Program) to the Executive Staff Assistant, Office of the Secretary of the Army
- ARMY 76 Special Assistant to the Assistant Secretary, Research Development and Acquisition
- Section 213.3308 Department of the Navy (DOD)*
- NAV 49 Staff Assistant to the Under Secretary of the Navy
- NAV 56 Staff Assistant to the Assistant Secretary of the Navy (Financial Management)

NAV 57 Staff Assistant to the Secretary of the Navy
 NAV 59 Staff Assistant to the Assistant Secretary of Navy (Manpower and Reserve Affairs)
 NAV 60 Staff Assistant to the Assistant Secretary of Navy (Research, Development and Acquisition)
 NAV 61 Special Assistant to the Principal Deputy Secretary of the Navy (Manpower and Reserve Affairs)
 NAV 62 Attorney Advisor to the Principal Deputy General Counsel
 NAV 63 Staff Assistant to the Secretary of the Navy
 NAV 64 Staff Assistant to the Under Secretary of the Navy

Section 213.3309 Department of the Air Force (DOD)

AF 2 Secretary Assistant to the Under Secretary of the Air Force
 AF 5 Secretary (Steno) to the Assistant Secretary Acquisition
 AF 6 Secretary (Steno) to the Assistant Secretary (Manpower and Reserve Affairs, Installation and Environment)
 AF 8 Secretary (Steno/OA) to the General Counsel of the Air Force
 AF 22 Secretary (Stenography/OA) to the Assistant to the Vice President for National Security Affairs
 AF 31 Staff Assistant to the Assistant to the Vice President for National Security Affairs
 AF 39 Secretary (OA) to the Assistant Secretary of the Air Force (Financial Management and Comptroller)
 AF 42 Staff Assistant to the Principal Deputy Assistant Secretary of the Air Force (Manpower, Reserve Affairs, Installations and Environment).
 AF 43 Special Advisor for International Affairs to the Assistant to the Vice President for National Security Affairs

Section 213.3310 Department of Justice

JUS 25 Confidential Assistant to the Assistant Attorney General, Criminal Division
 JUS 38 Secretary (OA) to the United States Attorney, Northern District of Illinois
 JUS 40 Secretary (OA) to the United States Attorney, Eastern District of Michigan
 JUS 47 Secretary (OA) to the United States Attorney, Western District of New York
 JUS 75 Secretary (OA) to the United States Attorney, Northern District of Texas
 JUS 83 Staff Assistant to the Assistant to the Attorney General (Chief Scheduler)
 JUS 97 Assistant to the Attorney General

JUS 104 Special Assistant to the Assistant Attorney General
 JUS 114 Staff Assistant to the Attorney General
 JUS 122 Public Affairs Specialist to the Director, Public Affairs
 JUS 128 Secretary (OA) to the United States Attorney, District of Arizona
 JUS 13 Special Assistant to the Commissioner, Immigration and Naturalization Service
 JUS 137 Assistant to the Commissioner
 JUS 140 Attorney Advisor to the Assistant Attorney General
 JUS 144 Special Assistant to the Solicitor General
 JUS 148 Special Assistant to the Chairman, United States Postal Commission
 JUS 150 Special Assistant to the Assistant Attorney General, Environment and Natural Resources Division
 JUS 169 Secretary (OA) to the United States Attorney, Middle District of Florida
 JUS 170 Assistant to the Attorney General
 JUS 173 Secretary (OA) to the United States Attorney, Western District of Louisiana
 JUS 184 Special Assistant to the Deputy Attorney General
 JUS 207 Staff Assistant to the Director, Office of Public Affairs
 JUS 208 Staff Assistant to the Director, Office of Public Affairs
 JUS 209 Confidential Assistant to the Assistant Attorney General for Civil Rights Division
 JUS 217 Special Assistant to the Director, Bureau of Justice Assistance
 JUS 233 Special Assistant to the Assistant Attorney General, Civil Rights Division
 JUS 235 Public Affairs Specialist to the Director of Public Affairs
 JUS 247 Special Assistant to the Commissioner, Immigration and Naturalization Service
 JUS 248 Deputy Director to the Director, Violence Against Women Office
 JUS 255 Counsel to the Assistant Attorney General, Civil Rights Division
 JUS 264 Confidential Assistant to the Assistant Attorney General
 JUS 266 Director, Special Projects to the Director, Office of Public Affairs
 JUS 267 Counsel to the Assistant Attorney General to the Assistant Attorney General
 JUS 268 Litigation Counsel to the Assistant Attorney General
 JUS 270 Special Assistant to the Assistant Attorney General, Civil Rights Division

JUS 273 Program Manager, Violence Against Women Office to the Director, Violence Against Women Office
 JUS 279 Deputy Director, Office Intergovernmental Affairs to the Deputy Attorney General
 JUS 282 Special Assistant to the Assistant Attorney General, Office of Policy Development
 JUS 293 Special Assistant to the Deputy Attorney General
 JUS 299 Public Affairs Assistant to the Director, Office of Public Affairs
 JUS 312 Senior Counsel to the Assistant Attorney General
 JUS 323 Chief of Staff to the Assistant Attorney General, Office of Justice Programs
 JUS 330 Attorney to the Deputy Director, Office of Intergovernmental Affairs
 JUS 344 Counsel to the Attorney General to the Attorney General
 JUS 357 Confidential Assistant to the Deputy Attorney General
 JUS 360 Deputy Assistant Attorney General to the Assistant Attorney General, Office of Policy Development
 JUS 361 Special Assistant to the Administrator to the Director, Bureau of Justice Statistics
 JUS 383 Assistant to the Attorney General
 JUS 387 Deputy Director, Office of Public Affairs to the Director, Office of Public Affairs
 JUS 401 Counsel to the Deputy Attorney General
 JUS 404 Assistant to the Attorney General to the Attorney General
 JUS 418 Secretary (OA) to the U.S. Attorney, District of Nebraska
 JUS 419 Public Affairs Specialist to the United States Attorney, Northern District of Florida
 JUS 420 Confidential Assistant to the United States Attorney, Eastern District of Pennsylvania
 JUS 421 Special Assistant to the Special Representatives to the United States Attorney, Southern District of California
 JUS 422 Secretary (OA) to the United States Attorney, Eastern District of Wisconsin
 JUS 423 Secretary to the United States Attorney, District of New Mexico
 JUS 424 Secretary to the United States Attorney, Northern District of Iowa
 JUS 425 Secretary (OA) to the United States Attorney, Middle District of Pennsylvania
 JUS 426 Secretary (OA) to the United States Attorney, Sioux Falls, South Dakota
 JUS 427 Secretary (OA) to the United States Attorney, District of New Hampshire
 JUS 428 Secretary (OA) to the United States Attorney, District of Minnesota

JUS 431 Secretary (OA) to the United States Attorney, District of Oregon, Portland, OR

JUS 433 Secretary (OA) to the United States Attorney, Middle District of Louisiana

JUS 435 Secretary (OA) to the United States Attorney, Western District of Arkansas

JUS 436 Secretary (OA) to the United States Attorney, Middle District of Alabama

JUS 437 Secretary (OA) to the United States Attorney, District of Delaware

JUS 445 Special Assistant to the Director, Community Relations Service

JUS 446 Senior Advisor to the Director, Community Oriented Policing Services

JUS 447 Special Assistant to the Director, Violence Against Women Program Officer

Section 213.3312 Department of the Interior

INT 171 Special Assistant to the Director of Communication

INT 172 Special Assistant to the Commissioner of Reclamation

INT 375 Special Assistant to the Secretary and White House Liaison to the Chief of Staff

INT 378 Special Assistant to the Director, Office of the Surface Mining

INT 426 Press Secretary to the Director of Communications

INT 442 Special Assistant to the Director, National Parks Service

INT 450 Special Assistant to the Director, United States Fish & Wildlife Service

INT 451 Deputy Director, Office of Insular Affairs to the Director, Office of Insular Affairs

INT 455 Special Assistant to the Deputy Assistant Secretary for Fish, Wildlife and Parks

INT 460 Director of Scheduling to the Deputy Chief of Staff

INT 463 Special Assistant to the Director of the National Park Service

INT 467 Special Assistant to the Chief of Staff

INT 468 Special Assistant to the Chief of Staff

INT 474 Special Assistant to the Commissioner of Reclamation

INT 476 Special Assistant to the Director, Bureau of Land Management

INT 479 Special Assistant to the Associate Director for Policy and Management Improvement

INT 486 Special Assistant (Speech Writer) to the Director, Office of Communications

INT 490 Special Assistant (Advance) to the Deputy Chief of Staff

INT 493 Special Assistant to the Secretary and Director of Executive Secretariat to the Deputy Chief of Staff

INT 497 Special Assistant to the Deputy Chief of Staff

INT 500 Special Assistant to the Secretary of the Interior

INT 502 Special Assistant to the Assistant Secretary for Policy, Management and Budget

INT 503 Special Assistant to the Director, Fish and Wildlife Service

INT 504 Special Assistant to the Director of the Bureau of Land Management

INT 505 Special Assistant to the Director, National Park Service

INT 506 Special Assistant to the Solicitor

INT 508 Special Assistant to the Deputy Assistant Secretary for Policy and International Affairs

INT 509 Special Assistant to the Director, National Park Service

INT 511 Special Assistant to the Deputy Chief of Staff

INT 512 Staff Assistant to the Director, Office of Surface of Mining

INT 513 Special Assistant to the Director, Office of Surface Mining

INT 514 Special Assistant to the Director, Bureau of Land Mines

INT 515 Special Assistant to the Chief of Staff

INT 516 Special Assistant to the Chief Biologist

INT 518 Special Assistant to the Deputy Director, Bureau Land Management

INT 519 Special Assistant to the Assistant Director for External Affairs, U.S. Fish and Wildlife Service

INT 520 Deputy Scheduler to the Deputy Chief of Staff, Office of the Secretary

INT 521 Special Assistant and Counselor to the Assistant Secretary for Indian Affairs

INT 522 Special Assistant to the Assistant Secretary for Land and Minerals Management

INT 523 Special Assistant to the Director, Congressional and Legislative Affairs

INT 524 Special Assistant to the Director, Bureau of Land Management

INT 525 Communications Director to the Assistant Secretary for Indian Affairs

INT 526 Special Assistant to the Director, Office of Communications

Section 213.3313 Department of Agriculture

AGR 3 Confidential Assistant to the Executive Assistant to the Secretary

AGR 5 Staff Assistant to the Administrator, Federal Agricultural Service

AGR 19 Confidential Assistant to the Administrator, Rural Utilities Services

AGR 26 Confidential Assistant to the Administrator, Farmers Home Administration

AGR 31 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service

AGR 32 Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service

AGR 33 Confidential Assistant to the Administrator, Consolidated Farm Service Agency

AGR 34 Special Assistant to the Administrator, Agricultural Stabilization Conservation Service

AGR 35 Staff Assistant to the Administrator, Federal Service Agency

AGR 48 Special Assistant to the Administrator, Food and Consumer Service

AGR 49 Confidential Assistant to the Administrator, Rural Housing Service

AGR 56 Private Secretary to the Assistant Secretary for Congressional Relations

AGR 64 Confidential Assistant to the Director, Office of Communications, Rural Development

AGR 77 Director, Intergovernmental Affairs to the Assistant Secretary for Congressional Relations

AGR 79 Confidential Assistant to the Administrator, Farmers Home Administration

AGR 81 Confidential Assistant to the Administrator, Rural Housing Service

AGR 100 Special Assistant for Nutrition Education to the Administrator, Food and Consumer Service

AGR 103 Confidential Assistant to the Administrator of the Foreign Agricultural Service

AGR 114 Confidential Assistant to the Assistant Secretary for Congressional Relations

AGR 121 Deputy Press Secretary to the Director, Office of Communications

AGR 131 Private Secretary to the Under Secretary for Natural Resources and Environment

AGR 151 Associate Administrator to the Administrator, Agricultural Marketing Service

AGR 157 Director, Legislative Affairs Staff to the Administrator, Foreign Agricultural Service

AGR 159 Special Assistant to the Administrator, Foreign Agricultural Service

AGR 160 Confidential Assistant to the Associate Administrator, Foreign Agricultural Service

AGR 161 Special Assistant to the Director, Office of Public Affairs

- AGR 162 Confidential Assistant to the Administrator, Agricultural Marketing Service
- AGR 163 Confidential Assistant to the Special Assistant to the Secretary
- AGR 175 Speech Writer to the Director, Office of Communications
- AGR 184 Staff Assistant to the Chief of Staff
- AGR 186 Special Assistant to the Secretary of Agriculture
- AGR 187 Special Assistant to the Administrator for Food and Consumer Service
- AGR 188 Northeast Area Director to the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service
- AGR 190 Area Director, Midwest Region to the Administrator, Agricultural Stabilization and Conservation Service
- AGR 192 Area Director, South West Area to the Administrator, Farm Service Agency
- AGR 196 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 205 Confidential Assistant to the Administrator, Food and Nutrition Service
- AGR 224 Chief of Staff to the Administrator, Risk Management Agency
- AGR 232 Confidential Assistant to the Deputy Under Secretary for Operations and Management
- AGR 236 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
- AGR 238 Confidential Assistant to the Assistant Secretary for Congressional Relations
- AGR 258 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 259 Special Assistant to the Administrator, Agricultural Marketing Service
- AGR 263 Special Assistant to the Chief, Natural Resources Conservation Service
- AGR 267 Confidential Assistant to the Director, Office of Communications
- AGR 268 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 270 Director, Office of the Executive Secretariat to the Secretary of Agriculture
- AGR 281 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 282 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 285 Confidential Assistant to the Executive Assistant to the Secretary
- AGR 286 Confidential Assistant to the Administrator, Foreign Agricultural Service
- AGR 290 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
- AGR 293 Special Assistant to the Administrator, Foreign Agricultural Service
- AGR 294 Confidential Assistant to the Administrator, Animal and Plant Health Inspection Service
- AGR 295 Confidential Assistant to the Assistant Secretary for Congressional Relations
- AGR 300 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 301 Confidential Assistant to the Administrator, Food, Nutrition and Consumer Service
- AGR 303 Staff Assistant to the Chief, Natural Resources Conservation Service
- AGR 311 Confidential Assistant to the Administrator, Agricultural Research Service
- AGR 312 Executive Assistant to the Administrator, Rural Housing Service
- AGR 318 Staff Assistant to the Administrator, Foreign Agricultural Service
- AGR 324 Confidential Assistant to the Under Secretary for Rural Development
- AGR 332 Confidential Assistant to the Administrator, Farmers Home Administration
- AGR 336 Confidential Assistant to the Secretary of Agriculture
- AGR 339 Confidential Assistant to the Administrator, Food and Nutrition Service
- AGR 341 Confidential Assistant to the Manager
- AGR 346 Confidential Assistant to the Administrator, Farmers Home Administration
- AGR 347 Confidential Assistant to the Director, Office of Communications
- AGR 348 Director for Public Outreach to the Director, Office of Communications
- AGR 352 Confidential Assistant to the Administrator, Food and Nutrition Service
- AGR 355 Speech Writer to the Director, Office of Communications
- AGR 361 Confidential Assistant to the Under Secretary for Research, Education and Economics
- AGR 365 Director, Native American Programs to the Assistant Secretary for Congressional Relations
- AGR 366 Deputy Administrator, Food Stamp Program to the Administrator, Food and Nutrition Service
- AGR 368 Confidential Assistant to the Manager, Federal Crop Insurance Corporation
- AGR 370 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
- AGR 371 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
- AGR 377 Confidential Assistant to the Deputy Administrator, Rural Business Service
- AGR 378 Deputy Press Secretary to the Director, Office of Communications
- AGR 384 Confidential Assistant to the Secretary of Agriculture
- AGR 386 Special Assistant to the Director, Empowerment Zone/Enterprise Community
- AGR 393 Confidential Assistant to the Administrator, Rural Development Administration
- AGR 402 Confidential Assistant to the Director, Office of Communications
- AGR 404 Confidential Assistant to the Director of Personnel
- AGR 405 Staff Assistant to the Deputy Chief of Staff
- AGR 413 Special Assistant to the Chief of Natural Resources Conservation Service
- AGR 415 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 417 Confidential Assistant to the Administrator, Agricultural Marketing Service
- AGR 418 Confidential Assistant to the Chief, Natural Resources Conservation Service
- AGR 422 Special Assistant to the Administrator, Farm Service Agency
- AGR 426 Deputy Director, Special Projects to the Director, Office of Communications
- AGR 427 Confidential Assistant to the Deputy Secretary
- AGR 428 Confidential Assistant to the Administrator, Rural Business and Cooperative Development Service
- AGR 429 Confidential Assistant to the Director, Office of Civil Rights Enforcement
- AGR 433 Confidential Assistant to the Administrator, Agricultural and Conservation Service
- AGR 435 Confidential Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
- AGR 436 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 438 Confidential Assistant to the Chief, Natural Resources Conservation Service
- AGR 440 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 444 Confidential Assistant to the Administrator, Food and Safety Inspection Service
- AGR 446 Confidential Assistant to the Deputy Under Secretary for Policy and Planning
- AGR 448 Confidential Assistant to the Deputy Administrator for Community Development, Rural Business Service

- AGR 450 Confidential Assistant to the Administrator, Agricultural Research Service
- AGR 451 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 452 Confidential Assistant to the Director, Office of Communications
- AGR 455 Director, Community Outreach Division to the Deputy Administrator, Community Development
- AGR 456 Special Assistant to the Administrator, Rural Development/Rural Housing Service
- AGR 458 Confidential Assistant to the Deputy Administrator for Community Development, Rural Business Service
- AGR 459 Confidential Assistant to the Administrator, Farm Agency Service
- AGR 461 Special Assistant to the Chief, Forest Service
- AGR 462 Special Assistant to the Director, Empowerment Zone/Enterprise Community
- AGR 465 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 467 Staff Assistant to the Assistant Secretary for Administration
- AGR 470 Staff Assistant to the Assistant Deputy Chief of Staff
- AGR 471 Confidential Assistant to the Administrator, Agricultural Marketing Service
- AGR 473 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 474 Confidential Assistant to the Deputy Administrator for Special Nutrition Programs, Food Consumer Service
- AGR 475 Confidential Assistant to the Administrator, Animal and Plant Inspection Service
- AGR 477 Special Assistant to the Associate Administrator, Rural Business Service
- AGR 478 Confidential Assistant to the Director, Tobacco and Peanuts Division, Farm Service Agency
- AGR 479 Special Assistant to the Administrator, Risk Management Agency
- AGR 480 Special Assistant to the Administrator, Cooperative State Research, Education and Extension Service
- AGR 481 Staff Assistant to the Deputy Administrator, Community Development
- AGR 482 Confidential Assistant to the Administrator, Rural Utilities Service
- AGR 483 Confidential Assistant to the Administrator, Rural Business Service
- AGR 484 Special Assistant to the Administrator, Food and Inspection Service
- AGR 485 Special Assistant to the Administrator, Food and Inspection Service
- AGR 486 Deputy Press Secretary to the Director, Office of Communications
- AGR 487 Confidential Assistant to the Administrator, Farm Service Agency
- AGR 488 Confidential Assistant to the Administrator, Economic Research Service
- AGR 489 Confidential Assistant to the Chief Financial Officer
- AGR 492 Confidential Assistant to the Administrator, Risk Management Agency
- AGR 493 Special Assistant to the Administrator, Grain Inspection, Packers and Stockyards Administration
- Section 213.3314 Department of Commerce*
- COM 3 Senior Advisor to the Chief of Staff
- COM 12 Special Assistant to the Deputy Secretary
- COM 16 Executive Assistant to the General Counsel
- COM 17 Special Assistant to the General Counsel
- COM 70 Director, Office of Communications and Congressional Liaison to the Assistant Secretary for Economic Development, Economic Development Administration
- COM 162 Special Assistant to the Assistant Secretary for International Economic Policy, International Trade Administration
- COM 165 Director, Office of Business Liaison to the Secretary of Commerce
- COM 181 Special Assistant to the Assistant Secretary for Communications and Information
- COM 189 Special Assistant to the Assistant Secretary for National Communications and Information Administration
- COM 190 Director, Office of Congressional Affairs to the Assistant Secretary for Communication and Information
- COM 194 Special Assistant to the Under Secretary, National Oceanic and Atmospheric Administration
- COM 202 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 204 Special Assistant to the Chief Scientist, National Oceanic and Atmospheric Administration
- COM 217 Special Assistant to the Director, Office of Public Affairs
- COM 224 Senior Advisor to the Undersecretary for International Trade
- COM 237 Special Assistant to the Under Secretary for International Trade
- COM 259 Director of Congressional Affairs to the Under Secretary for International Trade
- COM 277 Special Assistant to the Director of Public Affairs
- COM 284 Special Assistant to the Deputy Assistant Secretary for Intergovernmental Affairs, Office of Legislative and Intergovernmental Affairs
- COM 289 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 292 Special Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 298 Special Assistant to the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration
- COM 308 Special Assistant to the Assistant Secretary for Trade Development
- COM 312 Special Assistant to the Director General of the U.S. and Foreign Commercial Service
- COM 326 Confidential Assistant to the Assistant Secretary and Director General, U.S. and Foreign Commercial Service
- COM 327 Special Assistant to the Deputy Secretary of Commerce
- COM 335 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 342 Special Assistant to the Director of White House Liaison
- COM 345 Director of Public Affairs to the Under Secretary for International Trade Administration
- COM 350 Deputy Director, Office of Business Liaison to the Director, Office of Business Liaison
- COM 365 Special Assistant to the Director, Minority Business Development Agency
- COM 379 Special Assistant to the General Counsel
- COM 390 Confidential Assistant to the Under Secretary for Economic Affairs/Administration
- COM 393 Legislative Affairs Specialist to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
- COM 394 Deputy Director to the Director, Office of Public Affairs
- COM 397 Congressional Affairs Officer to the Assistant Director for Commerce
- COM 416 Director, Office of Consumer Affairs to the Secretary of Commerce
- COM 420 Special Assistant to the Director General of the United States and Foreign Commercial Service, International Trade Administration
- COM 423 Director of Congressional Affairs to the Assistant Secretary and Commissioner, Patent and Trademark Office
- COM 437 Senior Advisor to the Director, Office of Business Liaison

- COM 438 Confidential Assistant to the Director, Office of Business Liaison
- COM 447 Confidential Assistant to the Chief of Staff
- COM 462 Director of Congressional Affairs to the Assistant Secretary and Commissioner of Patent and Trademarks
- COM 467 Confidential Assistant to the Director, Office of External Affairs
- COM 468 Special Assistant to the Under Secretary for Export Administration
- COM 486 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 502 Deputy Director of Advance to the Director of Advance, Office of External Affairs
- COM 527 Executive Assistant to the Secretary of Commerce
- COM 530 Special Assistant to the Under Secretary for Technology, Technology Administration
- COM 538 Special Assistant to the Deputy Chief of Staff
- COM 543 Confidential Assistant to the Director, Office of Public Affairs, International Trade Administration
- COM 549 Special Assistant to the Deputy Under Secretary Economic Affairs
- COM 560 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 561 Special Assistant to the Assistant Secretary and Commissioner, Patent and Trademark Office
- COM 563 Deputy Director of Scheduling to the Deputy Director of External Affairs and Director of Scheduling
- COM 570 Senior Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 579 Director of Legislative, Intergovernmental and Public Affairs to the Under Secretary, Bureau of Export Administration
- COM 583 Special Assistant to the Chief of Staff
- COM 585 Chief, Intergovernmental Affairs to the Director, Office of Sustainable Development and Intergovernmental Affairs
- COM 592 Special Assistant to the Assistant Secretary Trade Administration
- COM 601 Director, Office of Public Affairs to the Under Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration
- COM 604 Assistant Director for Communications to the Director, Bureau of the Census
- COM 607 Intergovernmental Affairs Specialist to the Chief
- Intergovernmental Affairs, Office of Sustainable Development and Intergovernmental Affairs (NOAA)
- COM 612 Special Assistant to the Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration
- COM 613 Executive Assistant to the Deputy Secretary of Commerce
- COM 618 Confidential Assistant to the Director, Secretariat Staff
- COM 622 Confidential Assistant to the Assistant Secretary for Economic Development Administration
- COM 625 Special Assistant to the Deputy Assistant Secretary for Technology Policy
- COM 631 Special Advisor to the Director, Oceanic and Atmospheric Administrator
- COM 644 Special Assistant to the Director, Office of Sustainable Development and Intergovernmental Affairs
- COM 645 Special Assistant to the Director, Legislative, Intergovernmental and Public Affairs
- COM 648 Confidential Assistant to the Assistant Secretary, Office of Vocational and Adult Education.
- COM 651 Confidential Assistant to the Director for Communications and Press Secretary
- COM 659 Director, Office of White House Liaison to the Deputy Chief of Staff
- COM 664 Special Assistant to the Deputy Assistant Secretary for the U.S. and Foreign Commercial Service
- COM 666 Confidential Assistant to the Director, Office of Legislative Affairs
- COM 668 Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods to the Assistant Secretary for Trade Development
- COM 672 Speechwriter to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 680 Deputy Press Secretary-Agency Coordination to the Director for Communications and Press Secretary
- COM 682 Associate Under Secretary for Economic Affairs to the Under Secretary for Economic Affairs
- COM 683 Senior Advisor to the Assistant Secretary for Import Administration
- COM 685 Deputy Assistant Secretary for Policy and Planning to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 686 Director of Advance to the Deputy Chief of Staff for External Affairs
- COM 687 Policy Advisor and Counsel to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 689 Confidential Assistant to the Deputy Chief of Staff for External Affairs
- COM 690 Special Assistant to the Deputy Assistant Secretary for Agreements Compliance
- COM 691 Director of Planning and Scheduling to the Deputy Chief of Staff for External Affairs
- COM 692 Director, Secretariat for Electronic Commerce to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
- COM 693 Senior Advisor to the Director, Office of Sustainable Development and Intergovernmental Affairs
- Section 213.3315 Department of Labor*
- LAB 17 Director of Intergovernmental Affairs to the Assistant Secretary for Congressional and Intergovernmental Affairs
- LAB 35 Special Assistant to the Director, Director, Women's Bureau
- LAB 41 Chief of Staff to the Assistant Secretary for Office of Congressional and Intergovernmental Affairs
- LAB 45 Executive Assistant to the Assistant Secretary for Occupational Safety and Health Standards
- LAB 66 Executive Assistant to the Deputy Assistant Secretary, Office of Federal Contracts Compliance Programs, Employment Standards Administration
- LAB 83 Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration
- LAB 87 Staff Assistant to the Assistant Secretary for Employment Standards, Employment Standards Administration
- LAB 92 Senior Advisor to the Secretary of Labor
- LAB 93 Special Assistant to the Secretary to the Secretary of Labor
- LAB 101 Special Assistant to the Administrator Wage and Hour Division, Employment Standards Administration
- LAB 103 Secretary's Representative, Boston, MA to the Associate Director, Intergovernmental Affairs
- LAB 104 Secretary's Representative to the Associate Director, Intergovernmental Affairs
- LAB 105 Secretary's Representative, Philadelphia, PA to the Associate Director, Office of Congressional and Intergovernmental Affairs
- LAB 106 Secretary's Representative, Atlanta, GA to the Director, Intergovernmental Affairs

- LAB 107 Secretary's Representative
Chicago, Ill to the Associate Director,
Intergovernmental Affairs
- LAB 109 Secretary's Representative to
the Associate Director
- LAB 110 Secretary's Representative to
the Associate Director, Congressional
and Intergovernmental Affairs
- LAB 111 Secretary's Representative to
the Associate Director, Office of
Congressional and Intergovernmental
Affairs
- LAB 112 Secretary's Representative,
Seattle, WA to the Director, Office of
Intergovernmental Affairs
- LAB 123 Special Assistant to the
Deputy Assistant Secretary for Policy
- LAB 125 Special Assistant to the
Assistant Secretary, Employment
Standards Administration
- LAB 126 Special Assistant for Public
Affairs to the Assistant Secretary
Employment Standards
Administration
- LAB 129 Press Secretary to the
Assistant Secretary for Occupational
Safety and Health, Occupational
Safety And Health Administration
- LAB 130 Special Assistant to the
Executive Secretary
- LAB 132 Associate Director for
Congressional Affairs to the Assistant
Secretary for Congressional and
Intergovernmental Affairs
- LAB 137 Press Secretary to the
Assistant Secretary for Public Affairs
- LAB 139 Special Assistant to the Wage
Hour Administrator
- LAB 143 Special Assistant to the
Assistant Secretary for Employment
and Training
- LAB 145 Intergovernmental Officer to
the Associate Director
Intergovernmental Affairs
- LAB 147 Attorney-Advisor (Labor)
(Counsel to the Solicitor) to the
Solicitor of Labor
- LAB 151 Special Assistant to the
Director, Women's Bureau
- LAB 153 Special Assistant to the
Assistant Secretary for Occupational
Safety and Health
- LAB 159 Special Assistant to the
Deputy Under Secretary for
International Affairs, Bureau of
International Labor Affairs
- LAB 160 Director of Scheduling and
Advance to the Chief of Staff
- LAB 161 Special Assistant to the
Director of Scheduling and Advance
- LAB 164 Director of Communications
and Public Information to the
Assistant Secretary for Employment
and Training
- LAB 168 Director of Public Liaison to
the Secretary
- LAB 170 Special Assistant to the
Deputy Secretary of Labor
- LAB 171 Confidential Assistant to the
Secretary of Labor
- LAB 175 White House Liaison to the
Deputy Secretary
- LAB 177 Special Assistant to the
Secretary of Labor
- LAB 179 Special Assistant to the
Assistant Secretary, Employment
Standards Administration
- LAB 182 Counselor to the Deputy
Secretary of Labor
- LAB 187 Legislative Assistant to the
Assistant Secretary for Employment
and Training
- LAB 191 Special Assistant to the
Assistant Secretary for Policy
- LAB 196 Executive Assistant to the
Assistant Secretary, Veterans
Employment and Training
- LAB 197 Legislative Assistant to the
Assistant Secretary for Congressional
and Intergovernmental Affairs
- LAB 203 Executive Assistant to the
Assistant Secretary for Veterans'
Employment and Training
- LAB 204 Special Assistant to the
Assistant Secretary for Veterans'
Employment and Training
- LAB 205 Special Assistant to the
Assistant Secretary, Office of
Congressional and Intergovernmental
Affairs
- LAB 212 Special Assistant to the
Assistant Secretary for Policy
- LAB 217 Associate Director to the
Assistant Secretary for Congressional
and Intergovernmental Affairs
- LAB 220 Special Assistant to the
Assistant Secretary for Public Affairs
- LAB 230 Special Assistant to the
Assistant Secretary for Public Affairs
- LAB 233 Special Assistant to the
Assistant Secretary, Employment
Standards Administration
- LAB 239 Special Assistant to the
Secretary of Labor
- LAB 240 Legislative Assistant to the
Assistant Secretary for Congressional
and Intergovernmental Affairs
- LAB 244 Special Assistant to the
Secretary of Labor
- LAB 248 Special Assistant to the Chief
of Staff
- LAB 252 Speech Writer to the
Assistant Secretary for Public Affairs
- LAB 253 Deputy Counselor to the
Secretary of Labor
- LAB 259 Special Assistant to the
Assistant Secretary for Policy
- LAB 260 Special Assistant to the Chief
of Staff
- LAB 262 Special Assistant to the
Deputy Assistant Secretary, Office of
Federal Contract Compliance
Programs
- LAB 263 Special Assistant to the
Administrator, Wage and Hour
Division
- LAB 264 Staff Assistant to the
Administrator, Wage and Hour
Division
- LAB 272 Special Assistant to the
Assistant Secretary for Mine Safety
and Health
- LAB 280 Special Assistant to the
Assistant Secretary for Occupational
Safety and Health
- LAB 281 Senior Public Affairs Advisor
to the Assistant Secretary for Public
Affairs
- LAB 283 Advisor to the Assistant
Secretary for Mine Safety and Health
- LAB 284 Legislative Assistant to the
Administrator, Office of Policy and
Research, Employment and Training
Administration
- LAB 285 Chief of Staff to the Assistant
Secretary for Employment and
Training
- Section 213.3316 Department of
Health and Human Services*
- HHS 14 Special Assistant to the
Executive Secretary
- HHS 17 Director of Scheduling to the
Chief of Staff, Office of the Secretary
- HHS 31 Special Assistant to the
Secretary of Health and Human
Services
- HHS 120 Special Assistant to the
General Counsel
- HHS 187 Special Assistant to the
Deputy Assistant Secretary for
Legislation (Health)
- HHS 230 Attorney Advisor (Special
Assistant) to the General Counsel
- HHS 276 Special Assistant for Liaison
to the Associate Commissioner for
Legislative Affairs
- HHS 315 Special Assistant to the
Director of Intergovernmental Affairs
- HHS 331 Special Assistant to the
Administrator, Health Care Financing
Administration
- HHS 336 Special Assistant to the
Deputy Assistant Secretary for
Legislation (Human Services)
- HHS 340 Executive Assistant to the
Assistant Secretary for Legislation
- HHS 346 Congressional Liaison
Specialist to the Deputy Assistant
Secretary for Legislation
(Congressional Liaison)
- HHS 368 Senior Press Officer to the
Health Care Financing Administration
- HHS 373 Confidential Assistant to the
Executive Secretary
- HHS 374 Confidential Assistant to the
Executive Secretary
- HHS 395 Special Assistant to the
Director, Office of Community
Services, Administration for Children
and Families.
- HHS 399 Special Assistant to the
Assistant Secretary for Children and
Families
- HHS 415 Special Assistant to the
Secretary, Department of Health and
Human Services

- HHS 419 Special Assistant to the Secretary of Health and Human Services
- HHS 424 Confidential Assistant (Scheduling) to the Director of Scheduling
- HHS 427 Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for the Administration for Children and Families
- HHS 487 Confidential Assistant to the Administrator, Health Care Financing Administration
- HHS 500 Director, Office of Professional Relations to the Director, Center for Health Plans and Providers, Health Care Financing Administration
- HHS 510 Deputy Director, Office of Professional Relations to the Director, Office of Professional Relations, Health Care Financing Administration
- HHS 512 Special Assistant to the Assistant Secretary for Children and Families
- HHS 527 Confidential Assistant (Scheduling) to the Director of Scheduling
- HHS 529 Confidential Assistant (Scheduling) to the Director of Scheduling and Advance
- HHS 549 Speechwriter to the Director of Speechwriting, Office of the Deputy Assistant Secretary for Public Affairs (Media)
- HHS 553 Director of Communications to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
- HHS 556 Director of Speechwriting to the Deputy Assistant Secretary for Public Affairs (Media)
- HHS 558 Confidential Assistant to the Assistant Secretary for Public Affairs
- HHS 585 Special Assistant (Speechwriter) to the Director of Speechwriting
- HHS 588 Director, Division of Intergovernmental Affairs to the Assistant Secretary for the Administration for Children and Families
- HHS 589 Speechwriter to the Director of Speechwriting
- HHS 590 Confidential Assistant (Advance) to the Director of Scheduling and Advance
- HHS 615 Special Assistant to the Director of Communications, Communications Services Division
- HHS 622 Special Assistant to the Director, Office of Professional Relations, Health Care Financing Administration
- HHS 624 Special Assistant to the Commissioner, Administration for Children and Families
- HHS 625 Special Assistant to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
- HHS 628 Special Assistant to the Administrator, Substance Abuse and Mental Health Services Administration
- HHS 632 Special Outreach Coordinator to the Assistant Secretary for Public Affairs
- HHS 634 Special Assistant to the Deputy Director, Office of Child Support Enforcement
- HHS 636 Senior Advisor to the Director, Indian Health Service
- HHS 639 Special Assistant to the Deputy Assistant Secretary for Policy and External Affairs
- HHS 643 Executive Assistant for Legislative Projects to the Assistant Secretary for Health
- HHS 644 White House Liaison to the Chief of Staff
- HHS 645 Strategic Planning and Policy Coordinator to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy)
- HHS 646 Deputy Chief of Staff to the Chief of Staff
- HHS 652 Executive Assistant to the Assistant Secretary for Planning and Evaluation
- HHS 656 Confidential Assistant, Office of Scheduling to the Director of Scheduling
- HHS 657 Executive Director, Presidential Advisory Council on HIV/AIDS to the Assistant Secretary for Public Health and Science
- HHS 658 Confidential Assistant (Scheduling) to the Director of Scheduling
- HHS 659 Special Assistant to the Deputy Secretary
- HHS 660 Confidential Assistant to the Executive Secretary
- HHS 661 Special Assistant to the Deputy Secretary of Health and Human Services
- HHS 662 Confidential Assistant to the Deputy Chief of Staff
- HHS 664 Special Assistant to the Deputy Assistant Secretary for Legislation
- HHS 665 Deputy Director for Policy to the Director of Intergovernmental Affairs
- HHS 666 Deputy Director for Operations to the Director of Intergovernmental Affairs
- HHS 667 Confidential Assistant to the Executive Secretary
- Section 213.3317 Department of Education*
- EDU 1 Special Assistant to the Secretary's Regional Representative, Region IX
- EDU 4 Deputy Secretary's Regional Representative, Region IV (Atlanta, GA) to the Secretary's Regional Representative
- EDU 5 Confidential Assistant to the Director, Scheduling and Briefing Staff
- EDU 6 Confidential Assistant to the Special Assistant to the Secretary
- EDU 7 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 10 Confidential Assistant to the Assistant Secretary for Vocational and Adult Education
- EDU 12 Press Assistant to the Director Office of Public Affairs
- EDU 13 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 14 Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
- EDU 16 Special Assistant to the Assistant Secretary, Intergovernmental and Interagency Affairs
- EDU 19 Director, Intergovernmental and Interagency Affairs Coordination to the Deputy Assistant Secretary, Intergovernmental and Constituent Relations
- EDU 20 Steward to the Chief of Staff
- EDU 21 Confidential Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 22 Confidential Assistant to the Special Advisor to the Secretary in the Office of the Secretary
- EDU 23 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 24 Confidential Assistant to the Deputy Assistant Secretary for Regional and Community Services
- EDU 25 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 26 Confidential Assistant to the Assistant Secretary, Office for Civil Rights
- EDU 28 Confidential Assistant to the Assistant Secretary, Office of Civil Rights
- EDU 29 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
- EDU 30 Director, Scheduling and Briefing Staff to the Chief of Staff, Office of the Secretary
- EDU 31 Director, Congressional Affairs to the Assistant Secretary, Office of Legislation and Congressional Affairs
- EDU 34 Special Assistant to the Commissioner, Rehabilitation Service Administration
- EDU 37 Special Assistant to the Assistant Secretary, Office for Civil Rights
- EDU 38 Deputy Assistant Secretary for Intergovernmental and Constituent Relations to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs

- EDU 39 Special Assistant to the Assistant Secretary, OPE
- EDU 41 Confidential Assistant to the Special Assistant to the Secretary
- EDU 42 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
- EDU 43 Confidential Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs
- EDU 46 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 48 Special Assistant/Chief of Staff to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 49 Confidential Assistant to the Director Scheduling and Briefing Staff
- EDU 50 Special Assistant to the Director, Office of Public Affairs
- EDU 51 Director, White House Initiatives on Tribal Colleges and Universities to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 52 Special Assistant to the Director, Office of Public Affairs
- EDU 53 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 54 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
- EDU 55 Special Assistant (Special Advisor, HBCU) to the Director, Historically Black Colleges and Universities Staff
- EDU 56 Special Assistant to the Secretary's Regional Representative, Region VII
- EDU 58 Confidential Assistant to the Director, Executive Secretariat
- EDU 59 Special Assistant to the Deputy Secretary,
- EDU 60 Confidential Assistant to the Chief of Staff, Office of the Secretary
- EDU 61 Special Assistant to the Assistant Secretary of Special Education and Rehabilitative Services
- EDU 65 Confidential Assistant to the Director, Office of Public Affairs
- EDU 66 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
- EDU 67 Special Assistant to the Secretary of Education
- EDU 69 Confidential Assistant to the Special Assistant, Office of the Deputy Secretary
- EDU 71 Executive Assistant to the Deputy Secretary of Education
- EDU 73 Confidential Assistant to the Deputy Assistant Secretary, Intergovernmental and Constituent Relations
- EDU 74 Chief of Staff to the Deputy Secretary
- EDU 75 Confidential Assistant to the Secretary's Regional
- EDU 76 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 78 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 80 Deputy Director for Policy and Programs to the Director, Office of Bilingual Education and Minority Language Affairs
- EDU 81 Special Assistant to the Secretary of Education
- EDU 82 Deputy Director for Administration and Management to the Director, Office of Bilingual Education and Minority Language Affairs
- EDU 85 Special Assistant to the Deputy Assistant Secretary, Office of Student Financial Assistance Programs
- EDU 86 Deputy Assistant Secretary for Regional and Community Services to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 87 Special Assistant to the Director, Office of Special Education Programs
- EDU 88 Special Assistant to the Deputy Assistant Secretary for Regional and Community Services
- EDU 89 Special Assistant to the Counselor to the Secretary
- EDU 90 Special Assistant to the Counselor to the Secretary
- EDU 92 Deputy Assistant Secretary for Management and Planning to the Assistant Secretary for Elementary and Secondary Education
- EDU 93 Confidential Assistant to the Special Assistant, Office of the Secretary
- EDU 94 Special Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 96 Special Assistant to the Director, Scheduling and Briefing, Office of the Secretary
- EDU 98 Special Assistant to the Special Advisor to the Secretary
- EDU 100 Confidential Assistant to the Senior Advisor to the Secretary
- EDU 101 Deputy Secretary's Regional Representative to the Secretary's Regional Representative, Region I, Boston, MA
- EDU 102 Special Assistant to the Deputy Secretary
- EDU 103 Secretary's Regional Representative, Region VIII-Denver, CO, to the Assistant Secretary for Intergovernmental and Interagency Affairs
- EDU 104 Special Assistant to the Counselor to the Secretary
- EDU 106 Special Assistant to the Senior Advisor to the Secretary (Director, America Reads Challenge)
- EDU 107 Secretary's Regional Representative, Region V, Chicago, IL, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 109 Secretary's Regional Representative, Region VII, Kansas City, MO, to the Director, of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 110 Secretary's Regional Representative-Region II, New York, N.Y. to the Deputy Assistant Secretary for Regional Services
- EDU 113 Special Assistant to the Director, Corporate Liaison
- EDU 114 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 117 Director, Historically Black Colleges to the Assistant Secretary, Office of Postsecondary Education
- EDU 120 Special Assistant to the Deputy Secretary, Office of the Deputy Secretary
- EDU 122 Deputy Secretary's Regional Representative Region VI, Dallas, Texas to the Secretary's Regional Representative
- EDU 123 Secretary's Regional Representatives Region VI, Dallas, TX, to the Assistant Secretary for Intergovernmental and Interagency Affairs
- EDU 124 Executive Assistant to the Assistant Secretary, Office of Vocational and Adult Education
- EDU 127 Secretary's Regional Representative, Region I, Boston, Massachusetts to the Director, Regional Services Staff
- EDU 131 Secretary's Regional Representative, Region IX, San Francisco, CA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 132 Confidential Assistant to the Director, Office of Educational Technology, Office of the Deputy Secretary
- EDU 133 Director, Corporate Liaison to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 135 Confidential Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 136 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
- EDU 138 Special Assistant to the Under Secretary
- EDU 139 Confidential Assistant to the General Counsel
- EDU 140 Liaison for Community and Junior Colleges to the Assistant

- Secretary for Vocational and Adult Education
- EDU 144 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 145 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 146 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 148 Special Assistant to the Assistant Secretary, Office of Special Education and Rehabilitative Services
- EDU 149 Director, White house Initiative on Hispanic Education to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 150 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 157 Special Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 159 Confidential Assistant to the Chief Financial Officer
- EDU 164 Special Assistant to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs
- EDU 166 Special Assistant to the Director Regional Services Staff
- EDU 170 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 171 Director, Legislation Staff to the Assistant Secretary for Legislation and Congressional Affairs
- EDU 172 Special Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 173 Special Assistant to the Counselor to the Secretary
- EDU 174 Special Assistant to the Director, Office of Educational Technology
- EDU 177 Special Assistant to the Deputy Assistant Secretary for Regional Services
- EDU 190 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 191 Confidential Assistant to the Director, Scheduling and Briefing Staff
- EDU 198 Confidential Assistant to the Assistant Secretary, Office of Secondary and Elementary Education
- EDU 203 Confidential Assistant to the Assistant Secretary, Office of Elementary and Secondary Education
- EDU 208 Confidential Assistant to the Assistant Secretary, Office of Legislation and Congressional Affairs
- EDU 216 Confidential Assistant to the Under Secretary, Office of the Under Secretary
- EDU 219 Congressional Assistant to the Special Assistant to the Deputy Secretary
- EDU 220 Confidential Assistant to the Director, Office of Public Affairs
- EDU 223 Confidential Assistant to the Special Advisor to the Secretary
- EDU 225 Confidential Assistant to the Director, Intergovernmental and Interagency Coordination
- EDU 240 Confidential Assistant to the Assistant Secretary, Office of Postsecondary Education
- EDU 247 Confidential Assistant to the Deputy Secretary
- EDU 249 Confidential Assistant to the Director, Office of Public Affairs
- EDU 255 Confidential Assistant to the Assistant Secretary (Office of Postsecondary Education)
- EDU 256 Confidential Assistant to the Chief of Staff
- EDU 282 Confidential Assistant to the Director, Scheduling and Briefing Staff
- EDU 299 Confidential Assistant to the Special Assistant, Office of the Secretary
- EDU 332 Confidential Assistant to the Advisor to the Secretary (Director, America Reads Challenge)
- EDU 340 Deputy Secretary's Regional Representative, Region II, New York, NY, to the Secretary's Regional Representative
- EDU 347 Secretary's Regional Representative, Region X, Seattle, WA, to the Director of the State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 356 Deputy Director, to the Director, Office of Public Affairs
- EDU 404 Secretary's Regional Representative, Region IV, Atlanta, GA, to the Director, State, Local and Regional Services Staff, Office of Intergovernmental and Interagency Affairs
- EDU 427 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
- Section 213.3318 Environmental Protection Agency*
- EPA 171 Congressional Liaison Specialist to the Director, Congressional Liaison Division
- EPA 172 Special Assistant to the Assistant Administrator, Office of Solid Waste and Emergency Response
- EPA 175 Director, Office of the Executive Secretariat to the Chief of Staff, Office of the Administrator
- EPA 177 Senior Policy Advisor to the Assistant Administrator, Office of Air and Radiation
- EPA 182 Legal Advisor to the Assistant Administrator for Prevention, Pesticides and Toxic Substances
- EPA 184 Chief, Policy Counsel to the Assistant Administrator, Office of Water
- EPA 187 Counsel to the Assistant Administrator for Air and Radiation
- EPA 188 Legislative Coordinator to the Assistant Administrator, Office of Solid Waste and Emergency Response
- EPA 194 Special Assistant to the Associate Administrator for Communications, Education, and Public Affairs
- EPA 198 Assistant to the Deputy Administrator for External Affairs
- EPA 199 Policy Advisor to the Assistant Administrator for Air and Radiation
- EPA 201 Executive Assistant to the Associate Administrator for Regional Operations and State and Local Relations
- EPA 202 Special Assistant/Advanced Program Advisor to the Assistant Administrator for Enforcement and Compliance Assurance
- EPA 203 Special Assistant to the Associate Administrator, Office of Regional Operations and State/Local Relations
- EPA 204 Special Assistant to the Chief of Staff
- EPA 205 Senior Advisor to the Assistant Administrator for the Office of Policy Planning and Evaluation
- EPA 206 Special Assistant to the Administrator
- EPA 208 Special Assistant to the Associate Administrator
- EPA 209 Assistant to the Deputy Chief to the Deputy Chief of Staff (Scheduling)
- EPA 210 Staff Assistant to the Deputy Associate Administrator
- EPA 211 Assistant to the Deputy Administrator for External Affairs
- EPA 212 Staff Assistant to the Deputy Associate Administrator for Communications, Education and Public Affairs
- EPA 213 Deputy Associate Administrator for State and Local Relations to the Associate Administrator
- EPA 214 Special Assistant to the Administrator, Office of the Administrator
- EPA 215 Attorney-Advisor to the Associate General Counsel
- EPA 216 Special Assistant to the Chief of Staff
- EPA 217 Congressional Liaison Specialist to the Director, Office of Congressional Affairs
- EPA 218 Deputy Associate Administrator to the Associate Administrator, Congressional and Intergovernmental Relations

Section 213.3322 Surface Transportation Board (DOT)

STB 1 Confidential Assistant to the Chairman

Section 213.3323 Federal Communications Commission

FCC 20 Associate Chief to the Chief, Office of Public Affairs
 FCC 23 Special Assistant for Legislative Affairs to the Chairman
 FCC 24 Special Assistant to the Chief, International Bureau
 FCC 26 Special Assistant (Public Affairs) to the Chief, Cable Services Bureau
 FCC 27 Special Advisor to the Bureau Chief, Cable Services Bureau

Section 213.3323 Overseas Private Investment Corporation

OPIC 18 Confidential Assistant to the President and Chief Executive Officer
 OPIC 19 Special Assistant for Congressional and Intergovernmental Affairs to the Managing Director, Congressional and Intergovernmental Affairs
 OPIC 20 Director, Protocol and Special Initiatives to the Vice President, Investment Development Department

Section 213.3325 United States Tax Court

TCOUS 41 Secretary and Confidential Assistant to a Judge
 TCOUS 42 Secretary and Confidential Assistant to a Judge
 TCOUS 43 Secretary (Confidential Assistant) to a Judge
 TCOUS 44 Secretary and Confidential Assistant to a Judge
 TCOUS 45 Secretary and Confidential Assistant to a Judge
 TCOUS 46 Secretary and Confidential Assistant to a Judge
 TCOUS 47 Secretary (Confidential Assistant) to a Judge
 TCOUS 48 Secretary and Confidential Assistant to a Judge
 TCOUS 49 Secretary and Confidential Assistant to a Judge
 TCOUS 50 Secretary and Confidential Assistant to a Judge
 TCOUS 51 Secretary and Confidential Assistant to a Judge
 TCOUS 52 Secretary (Confidential Assistant) to a Judge
 TCOUS 53 Secretary and Confidential Assistant to a Judge
 TCOUS 54 Secretary and Confidential Assistant to a Judge
 TCOUS 56 Secretary and Confidential Assistant to a Judge
 TCOUS 57 Secretary and Confidential Assistant to a Judge
 TCOUS 58 Secretary and Confidential Assistant to a Judge
 TCOUS 59 Secretary and Confidential Assistant to a Judge

TCOUS 60 Secretary (Confidential Assistant) to a Judge
 TCOUS 61 Secretary and Confidential Assistant to a Judge
 TCOUS 62 Secretary and Confidential Assistant to a Judge
 TCOUS 63 Secretary and Confidential Assistant to a Judge
 TCOUS 64 Secretary and Confidential Assistant to a Judge
 TCOUS 65 Secretary and Confidential Assistant to a Judge
 TCOUS 66 Trial Clerk to a Judge
 TCOUS 67 Trial Clerk to a Judge
 TCOUS 68 Trial Clerk to a Judge
 TCOUS 69 Trial Clerk to a Judge
 TCOUS 70 Trial Clerk to a Judge
 TCOUS 71 Trial Clerk to a Judge
 TCOUS 72 Trial Clerk to a Judge
 TCOUS 73 Trial Clerk to a Judge
 TCOUS 74 Trial Clerk to a Judge
 TCOUS 75 Trial Clerk to a Judge
 TCOUS 77 Trial Clerk to a Judge
 TCOUS 79 Trial Clerk to a Judge
 TCOUS 80 Secretary (Confidential Assistant) to a Judge
 TCOUS 82 Secretary (Confidential Assistant) to a Judge

Section 213.3327 Department of Veterans Affairs

VA 72 Special Assistant to the Assistant Secretary for Congressional Affairs
 VA 74 Special Assistant to the Secretary of Veterans Affairs
 VA 78 Special Assistant to the Assistant Secretary for Finance and Information Resources Management
 VA 79 Special Assistant to the Assistant Secretary for Human Resources and Administration
 VA 84 Special Assistant to the Assistant Secretary for Congressional Affairs
 VA 87 Special Assistant to the Secretary of Veterans Affairs
 VA 89 Special Assistant to the Director, National Cemetery System
 VA 90 Executive Assistant to the Deputy Assistant Secretary for Veterans Affairs
 VA 91 Special Assistant to the Secretary of Veterans Affairs
 VA 92 Special Assistant to the Deputy Secretary of Veterans Affairs
 VA 93 Special Assistant to the Secretary of Veterans Affairs
 VA 94 Executive Assistant to the Secretary of Veterans Affairs/Deputy Chief of Staff

Section 213.3328 United States Information Agency

USIA 12 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
 USIA 14 Program Officer to the Associate Director, Bureau of Information

USIA 22 Supervisory Public Affairs Specialist (New York, New York) to the Associate Director, Bureau of Information, Foreign Press Center
 USIA 33 Media Relations Advisor to the Director, Office of Public Liaison
 USIA 43 Director, Office of Citizen Exchanges to the Associate Director, Bureau of Educational and Cultural Affairs
 USIA 54 Special Assistant to the Director, Office of Citizen Exchanges
 USIA 67 Chief, Voluntary Visitors Division to the Director, Office of International Visitors, Bureau of Educational and Cultural Affairs
 USIA 89 Staff Director, Advisory Board for Cuba Broadcasting to the Chairman of the Advisory Board
 USIA 93 Program Officer to the Deputy Director, Office of European and NIS Affairs
 USIA 101 Public Affairs Specialist to the Director, New York Foreign Press Center, New York, NY
 USIA 118 Special Assistant to the Director, United States Information Agency
 USIA 124 Special Assistant to the Associate Director for Programs, Bureau of Information
 USIA 125 Special Assistant to the Director, Office of Academic Programs, Bureau of Educational and Cultural Affairs
 USIA 126 Special Assistant to the Director, Office of Congressional and Intergovernmental Affairs
 USIA 127 Writer to the Director, Office of Policy
 USIA 137 Deputy Director to the Director, Office of Arts America
 USIA 138 Senior Coordinator for Multi-Media Development to the Associate Director, Bureau of Information
 USIA 141 Director, Office of Support Services to the Associate Director of the Bureau of Information
 USIA 145 Confidential Assistant to the Director, Office of Cuba Broadcasting
 USIA 146 Confidential Assistant to the Director, United States Information Agency
 USIA 147 Senior Coordinator for Public Diplomacy Programs to the Associate Director, Bureau of Information
 USIA 149 Special Assistant to the Director, Office of International Visitors
 USIA 150 Confidential Assistant to the Director, Voice of America
 USIA 152 Director, Office of Congressional and External Affairs to the Director, International Broadcasting Bureau
 USIA 153 Senior Advisor to the Director, Citizen Exchanges

USIA 154 Confidential Assistant to the Director, Office of Cuba Broadcasting

Section 213.3330 Securities and Exchange Commission

SEC 2 Confidential Assistant to a Commissioner

SEC 3 Confidential Assistant to a Commissioner

SEC 4 Confidential Assistant to the Chief of Staff

SEC 5 Confidential Assistant to a Commissioner

SEC 6 Confidential Assistant to a Commissioner

SEC 8 Secretary (OA) to the Chief Accountant

SEC 11 Confidential Assistant to the Chairman

SEC 12 Director of Public Affairs to the Chairman, Securities and Exchange Commission

SEC 15 Secretary (OA) to the Director, Market Regulation

SEC 16 Secretary to the Director

SEC 18 Secretary to the Director, Division Of Investment Management

SEC 19 Secretary to the Director, Division of Corporate Finance

SEC 24 Secretary to the Chief Economist

SEC 28 Confidential Assistant to the Chairman of the Securities and Exchange Commission

SEC 29 Secretary to the Deputy Director of Market Regulation

SEC 31 Public Affairs Specialist to the Director of Public Affairs

SEC 32 Special Assistant for Press Relations to the Director of Public Affairs, Policy Evaluation and Research

SEC 34 Secretary to the Executive Director

SEC 37 Writer-Editor to the Chief of Staff

Section 213.3331 Department of Energy

DOE 439 Public Assistant to the Director, Office of Public Affairs

DOE 576 Director, Office of Scheduling and Logistics to the Assistant Secretary for Human Resources and Management

DOE 576 Special Assistant to the Assistant Secretary for Policy and International Affairs

DOE 580 Staff Assistant to the Director, Office of Nonproliferation and National Security

DOE 587 Staff Assistant to the Assistant Secretary for Environmental Safety and Health

DOE 591 Staff Assistant to the Deputy Assistant Secretary for Building Technologies

DOE 602 Senior Staff Advisor to the Director, Office of Energy Research

DOE 603 Special Assistant to the Director, Office of Strategic Planning and Analysis

DOE 604 Staff Assistant to the Assistant Secretary for Policy and International Affairs

DOE 610 Staff Assistant to the Director, Office of Energy Research

DOE 615 Staff Assistant to the Director, Office of Intelligence and National Security

DOE 622 Legislative Affairs Specialist to the Deputy Assistant Secretary for Senate Liaison, Office of Congressional and Intergovernmental Affairs

DOE 625 Staff Assistant to the Associate Deputy Secretary for Field Management

DOE 626 Staff Assistant to the Deputy Assistant Secretary for Transportation Technologies

DOE 631 Special Assistant to the Press Secretary, Press Services Division, Office of Public and Consumer Affairs

DOE 644 Staff Assistant to the Assistant Secretary for Efficiency and Renewable Energy

DOE 654 Confidential Staff Assistant to the Director, Office of Economic Impact and Diversity

DOE 655 Special Assistant for Regulatory Compliance to the Deputy Assistant Secretary for Compliance and Program Coordination

DOE 657 Special Assistant to the Director, Office of Economic Impact and Diversity

DOE 658 Director, Office of Natural Gas Policy to the Principal Deputy Assistant Secretary for Policy

DOE 663 Assistant Director for Energy Research (Communications and Development) to the Director, Office of Energy Research

DOE 664 Staff Assistant to the Deputy Assistant Secretary for Planning, Policy and Budget

DOE 665 Special Liaison (Federal Power Marketing Administration) to the Assistant Secretary for Energy Efficiency and Renewable Energy

DOE 666 Special Assistant to the Director, Press Services Division

DOE 667 Special Assistant to the Assistant Secretary for Energy and Renewable Energy

DOE 672 Staff Assistant to the Assistant Secretary for Policy and International Affairs

DOE 674 Staff Assistant to the Deputy Assistant Secretary for Technical and Financial Assistance

DOE 676 Confidential Assistant to the Assistant Secretary for Environmental Management

DOE 678 Staff Assistant to the Assistant Secretary for Fossil Energy

DOE 679 Special Assistant to the Assistant Secretary for Policy and International Affairs

DOE 680 Staff Assistant to the Chief Financial Officer

DOE 681 Special Assistant to the Director, Office of Worker and Community Transition

DOE 682 Senior Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs

DOE 684 Program Specialist to the Director, International Policy and Analysis Division

DOE 686 Associate Director to the Director, Office of Nuclear Energy, Science and Technology

DOE 694 Staff Assistant to the Director, Office of Budget Planning and Customer Service

DOE 695 Legislative Affairs Liaison Officer to the Deputy Assistant Secretary for House Liaison

DOE 697 Special Assistant to the Assistant Secretary for Environmental Management

DOE 699 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy

DOE 701 Special Assistant to the Assistant Secretary for Defense Programs

DOE 702 Special Assistant to the Director, Office of Worker and Community Transition

DOE 704 Special Assistant to the Secretary of Energy

DOE 705 Special Assistant to the Secretary of Energy

DOE 707 Executive Assistant to the Secretary of Energy

DOE 708 Special Projects Liaison Specialist to the Director, Public Affairs

DOE 709 Senior Advisor to the Assistant Secretary for Environment, Safety and Health

DOE 710 Special Assistant to the Deputy Secretary of Energy

DOE 712 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy

DOE 713 Staff Assistant (Legal) to the Assistant Secretary for Environmental Management

DOE 714 Special Assistant for Energy Security and International Issues to the Assistant Secretary for Fossil Energy

DOE 715 Special Assistant to the Director, Scheduling and Logistics

DOE 716 Briefing Book Coordinator to the Director, Scheduling and Logistics

DOE 717 Special Assistant to the Director, Scheduling and Advance

DOE 718 Intergovernmental Specialist to the Deputy Assistant Secretary, Office of Planning, Budget and Policy

- DOE 719 Special Assistant to the Director, Office of Worker and Community Transition
- DOE 720 Director of Communications to the Assistant Secretary for Energy Efficiency and Renewable Energy
- DOE 721 Speechwriter to the Director, Office of Public Affairs
- DOE 722 Special Assistant to the Assistant Secretary for Energy Efficiency and Renewable Energy
- DOE 723 Special Assistant to the Deputy Assistant Secretary for Building Technology, State and Community Programs
- DOE 724 Special Assistant to the Secretary and Director of Logistics and Advance to the Assistant Secretary for Human Resources and Administration
- DOE 726 Staff Assistant to the Special Assistant and Acting Assistant Secretary of Policy and International Affairs
- DOE 727 Staff Assistant to the Director, Scheduling and Advance
- DOE 729 Staff Assistant to the Director, Office of Scheduling and Advance
- DOE 730 Confidential Assistant to the Director, Office of Economic Impact and Diversity
- DOE 732 White House Liaison to the Secretary of Energy
- DOE 733 Special Assistant for Management Reform to the Secretary of Energy
- DOE 734 Senior Program Advisor to the Associate Deputy Secretary for Field Management
- DOE 735 Confidential Assistant to the Director of Energy Research
- DOE 736 Special Assistant to the Director, Office of Energy Research
- DOE 737 Special Assistant to the Secretary of Energy
- DOE 738 Special Assistant to the Associate Deputy Secretary for Field Management
- DOE 739 Special Assistant to the Secretary and Director of Scheduling to the Assistant Secretary for Human Resources and Administration
- DOE 740 Special Assistant to the Director, Office of Civilian Radioactive Management
- DOE 741 Special Assistant to the Deputy Assistant Secretary for Natural Gas and Petroleum Technology
- DOE 742 Special Assistant to the Assistant Secretary for Human Resources and Administration
- DOE 743 Special Assistant to the Assistant Secretary for Policy and International Affairs
- DOE 744 Special Assistant for External Programs to the Director, Office of Nuclear Energy, Science and Technology
- DOE 747 Deputy Assistant Secretary for Senate Liaison to the Assistant Secretary for Congressional and Intergovernmental Affairs
- Federal Energy Regulatory Commission
- FERC 1 Special Assistant to the Director, Office of External Affairs
- FERC 2 Confidential Assistant to a Member
- FERC 3 Confidential Assistant to a Member
- FERC 4 Attorney-Advisor (Public Utilities) to the General Counsel
- FERC 6 Confidential Assistant to a Member
- FERC 13 Technical Advisor to a Member
- Section 213.3332 Small Business Administration*
- SBA 11 Deputy Assistant Administrator for Congressional and Legislative Affairs to the Assistant Administrator for Congressional and Legislative Affairs
- SBA 63 Special Assistant to the Associate Administrator for Communications and Public Liaison
- SBA 100 Special Assistant to the Regional Administrator, Dallas Regional Office
- SBA 128 Assistant Administrator for Women's Business Ownership to the Associate Deputy Administrator for Economic Development
- SBA 151 Director of External Affairs to the Associate Administrator for Communications and Public Liaison
- SBA 157 Special Assistant to the Associate Deputy Administrator for Capital Access
- SBA 168 Director of Intergovernmental Affairs to the Associate Administrator for Communications and Public Liaison
- SBA 169 Regional Administrator, Region I, Boston, MA, to the Administrator, Small Business Administration
- SBA 172 Regional Administrator, Region VII, Kansas City, MO, to the Administrator, Small Business Administration
- SBA 174 Regional Administrator, Region V, Chicago, IL, to the Administrator, Small Business Administration
- SBA 175 Regional Administrator, Region IV, Atlanta, GA, to the Administrator, Small Business Administration
- SBA 176 Regional Administrator, Region II, New York, NY, to the Administrator, Small Business Administration
- SBA 188 Regional Administrator, Region IX, San Francisco, to the Administrator, Small Business Administration
- SBA 189 Regional Administrator, Region X, Seattle, WA, to the Administrator, Small Business Administration
- SBA 193 Director of International Trade to the Assistant Administrator for International Trade
- SBA 196 Director of Communications to the Assistant Administrator of Communications
- SBA 197 Deputy to the Associate Deputy Administrator, Office of Economic Development
- SBA 198 Deputy Associate Administrator to the Associate Administrator for Communications and Public Liaison
- SBA 199 Senior Advisor (Director, Welfare to Work Initiative) to the Associate Deputy Administrator, Office of Entrepreneurial Development
- SBA 200 Senior Advisor to the Associate Administrator for Communications and Public Liaison
- SBA 201 Deputy Director, Welfare to Work Initiative to the Senior Advisor (Director, Welfare to Work Initiative) to the Associate Deputy Administrator, Entrepreneurial Development
- SBA 202 Special Assistant to the Chief of Staff
- SBA 205 Deputy Scheduler to the Chief of Staff
- SBA 206 National Director for Community Outreach to the Administrator, Small Business Administration
- SBA 208 Special Assistant to the Senior Advisor to the Associate Deputy Administrator of Entrepreneurial Development
- SBA 210 Special Assistant to the Senior Advisor to the Administrator
- SBA 211 Speech Writer to the Associate Administrator for Communications and Public Liaison
- Section 213.3333 Federal Deposit Insurance Corporation*
- FDIC 15 Secretary to the Chairman
- Section 213.3334 Federal Trade Commission*
- FTC 2 Director of Public Affairs (Supervisory Public Affairs Specialist) to the Chairman
- FTC 22 Secretary (Office Automation) to the Director, Bureau of Competition
- FTC 23 Special Assistant to a Commissioner
- FTC 24 Special Assistant to a Commissioner
- Section 213.3337 General Services Administration*
- GSA 11 Special Assistant to the Associate Administrator for Enterprise Development

GSA 24 Special Assistant to the Commissioner, Public Buildings Service
 GSA 26 Special Assistant to the Commissioner, Public Building Service
 GSA 51 Special Assistant to the Administrator
 GSA 52 Senior Advisor to the Commissioner, Public Buildings Service
 GSA 69 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
 GSA 89 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Affairs
 GSA 90 Deputy Associate Administrator to the Associate Administrator for Congressional and Intergovernmental Affairs
 GSA 91 Special Assistant to the Associate Administrator for Governmentwide Policy
 GSA 94 Congressional Relations Officer to the Associate Administrator, Office of Congressional and Intergovernmental Affairs
 GSA 95 Deputy Chief of Staff to the Chief of Staff
 GSA 113 Special Assistant to the Regional Administrator (Boston, MA)
 GSA 114 Special Assistant to the Regional Administrator, Northeast and Caribbean Region
 GSA 118 Special Assistant to the Regional Administrator, Great Lakes Region
 GSA 119 Special Assistant to the Regional Administrator, Great Lakes Region
 GSA 130 Special Assistant to the Regional Administrator, Region 7
 GSA 131 Supervisory External Affairs Specialist to the Commissioner, Public Buildings Service

Section 213.3339 U.S. International Trade Commission

ITC 3 Staff Assistant (Legal) to a Commissioner
 ITC 5 Confidential Assistant to a Commissioner
 ITC 13 Senior Economist to a Commissioner
 ITC 15 Confidential Assistant to a Commissioner
 ITC 17 Attorney-Advisor (General) to the Chairman
 ITC 31 Executive Assistant to a Commissioner

Section 213.3340 National Archives and Records Administration

NARA 3 Presidential Diarist to the Archivist of the United States

Section 213.3341 National Labor Relations Board

NLRB 1 Confidential Assistant to the Chairman

Section 213.3342 Export-Import Bank of the United States

EXIM 3 Administrative Assistant to the President and Chairman
 EXIM 30 Administrative Assistant to the Director
 EXIM 44 Personal and Confidential Assistant to the Vice Chairman
 EXIM 45 Administrative Assistant to the Director, Bank Board of Directors
 EXIM 46 Special Assistant to the First Vice President and Vice Chair
 EXIM 48 Administrative Assistant to the Director, Bank Board of Directors
 EXIM 49 Deputy Chief of Staff to the Chief of Staff and Vice President, Congressional and External Affairs
 EXIM 50 Personal and Confidential Assistant to the Chairman
 EXIM 51 Assistant to the President and Chairman, Export Import Bank of the United States

Section 213.3343 Farm Credit Administration

FCA 1 Special Assistant to the Chairman
 FCA 8 Secretary to the Chairman
 FCA 11 Special Assistant to a Member
 FCA 13 Special Assistant to a Member
 FCA 15 Congressional and Public Affairs Specialist to the Director of Congressional and Public Affairs

Section 213.3344 Occupational Safety and Health Review Commission

OSHRC 2 Special Assistant to the Chairman of the Occupational Safety and Health Review Commission

Section 213.3346 Selective Service System

SSS 16 Special Assistant to the Director of Selective Service
 SSS 17 Executive Director to the Director of Selective Service
 SSS 18 Confidential Assistant to the Director of Selective Service

Section 213.3347 Federal Mediation and Conciliation Service

FMCS 8 Public Affairs Director to the Director, Federal Mediation and Conciliation Service
 FMCS 9 Special Assistant to the Director, Federal Mediation and Conciliation Service

Section 213.3348 National Aeronautics and Space Administration

NASA 28 Public Affairs Specialist to the Associate Administrator for Public Affairs
 NASA 31 Executive Assistant to the Administrator

NASA 33 Legislative Affairs Specialist to the Associate Administrator, Legislative Affairs
 NASA 34 Manager, Multimedia Relations to the Associate Administrator for Public Affairs
 NASA 35 Director for Enterprise Liaison to the Associate Administrator for Aeronautics and Space Transport Technology
 NASA 37 International Programs Specialist to the Associate Administrator, Office of External Programs
 NASA 38 Writer-Editor to the Associate Administrator for Public Affairs
 NASA 39 Public Affairs Specialist to the Associate Administrator for Public Affairs
 NASA 40 Legislative Affairs Specialist to the Associate Administrator for Legislative Affairs
 NASA 41 State Local Intergovernmental Affairs Specialist to the Associate Administrator for Policy and Plans
 NASA 42 Staff Assistant to the White House Liaison Officer
 NASA 43 Radio Production Specialist to the Associate Administrator, Public Affairs
 NASA 44 Program Specialist to the Special Assistant to the Administrator

Section 213.3351 Federal Mine Safety and Health Review Commission

FM 8 Attorney Advisor to a Commissioner
 FM 17 Confidential Assistant to a Commissioner
 FM 25 Attorney-Advisor to a Commissioner
 FM 26 Attorney-Advisor (General) to the Chairman
 FM 28 Confidential Assistant to a Commissioner
 FM 29 Attorney-Advisor to a Commissioner
 FM 30 Confidential Assistant to a Commissioner

Section 213.3355 Social Security Administration

SSA 4 Special Assistant to the Chief of Staff
 SSA 5 Executive Assistant to the Commissioner of Social Security
 SSA 6 Press Officer to the Deputy Commissioner for Communications
 SSA 7 Deputy Press Officer to the Deputy Commissioner for Communications

Section 213.3356 Commission on Civil Rights

CCR 9 Executive Assistant to the Staff Director
 CCR 12 Special Assistant to a Commissioner

CCR 13 Special Assistant to a Commissioner
 CCR 14 Deputy General Counsel to the General Counsel,
 CCR 23 Special Assistant to a Commissioner
 CCR 30 Special Assistant to a Commissioner
 CCR 32 Special Assistant to a Commissioner

Section 213.3357 National Credit Union Administration

NCUA 9 Staff Assistant to the Chairman of the Board, National Credit Union Administration
 NCUA 12 Executive Assistant to a Board Member
 NCUA 20 Executive Assistant to a Board Member
 NCUA 21 Communications and Administrative Assistant to a Board Member
 NCUA 23 Special Assistant to the Executive Director
 NCUA 24 Writer-Editor to the Chairman

Section 213.3360 Consumer Product Safety Commission

CPSC 49 Office of a Commissioner
 CPSC 50 Staff Assistant to a Commissioner
 CPSC 52 Director, Office of Information and Public Affairs to the Chairman
 CPSC 53 Special Assistant to the Chairman
 CPSC 55 Executive Assistant to the Chairman
 CPSC 56 Director, Office of Congressional Relations to the Chairman
 CPSC 60 Special Assistant to the Chairman
 CPSC 61 Staff Assistant to a Commissioner
 CPSC 62 Special Assistant to a Commissioner
 CPSC 63 Special Assistant to a Commissioner
 CPSC 64 Special Assistant (Legal) to a Commissioner

Section 213.3364 U.S. Arms Control and Disarmament Agency

ACDA 2 Secretary (Steno O/A) to the Deputy Director, U.S. Arms Control and Disarmament Agency
 ACDA 17 Secretary (OA) to the Director
 ACDA 23 Administrative Assistant to the Director and Chairman Board of Directors
 ACDA 27 Special Assistant to the Director
 ACDA 28 Special Assistant to the Director
 ACDA 29 Congressional Affairs Specialist to the Director of Congressional Affairs

ACDA 31 Special Assistant and Speechwriter to the Director
 ACDA 36 Director of Public Information to the Director

Section 213.3367 Federal Maritime Commission

FMC 10 Special Assistant to a Commissioner
 FMC 26 Executive Assistant to the Chairman
 FMC 30 Special Assistant to a Commissioner
 FMC 35 Counsel to a Commissioner
 FMC 37 Counsel to a Commissioner

Section 213.3368 Agency for International Development

AID 125 Executive Assistant to the Chief of Staff
 AID 127 Supervisory Public Affairs Specialist to the Director, Office of External Affairs
 AID 136 Congressional Liaison Officer to the Deputy Assistant Administrator, Bureau of Legislative Affairs
 AID 145 Public Affairs Specialist to the Chief, Public Liaison Office, Bureau for Legislation and Public Affairs
 AID 149 Public Affairs Specialist to the Chief, Legislative and Public Affairs, Public Liaison Division
 AID 150 Legislative Affairs Specialist to the Deputy Assistant Administrator
 AID 151 Congressional Liaison Officer to the Chief of Legislative and Public Affairs, Congressional Liaison Division
 AID 152 Special Assistant to the Assistant Administrator, Bureau for Latin America and the Caribbean

Section 213.3371 Office of Government Ethics

OGE 2 Executive Secretary to the Director, Office of Government Ethics

Section 213.3373 United States Trade and Development Agency

TDA 1 Congressional Liaison Officer to the Director, Trade and Development Agency
 TDA 3 Special Assistant for Public Affairs and Marketing to the Director, Trade and Development Agency

Section 213.3376 Appalachian Regional Commission

ARC 12 Senior Policy Advisor to the Federal Co-Chairman
 ARC 13 Policy Advisor to the Federal Co-Chairman

Section 213.3377 Equal Employment Opportunity Commission

EEOC 13 Confidential Assistant to the Director, Legal Counsel

EEOC 15 Media Contact Specialist to the Director, Office of Communications and Legislative Affairs

EEOC 25 Media Contact Specialist (Bilingual) to the Director, Office of Communications and Legislative Affairs, Office of the Director

EEOC 32 Senior Advisor to a Commissioner

EEOC 36 Attorney Advisor to the General Counsel

Section 213.3379 Commodity Futures Trading Commission

CFTC 3 Administrative Assistant to a Commissioner
 CFTC 4 Administrative Assistant to a Commissioner
 CFTC 6 Administrative Assistant to a Commissioner
 CFTC 16 Special Assistant to a Commissioner
 CFTC 29 Special Assistant to a Commissioner
 CFTC 30 General Attorney (Special Counsel) to the General Counsel

Section 213.3382 National Endowment for the Arts

NEA 9 Congressional Liaison Officer to the Chairman
 NEA 72 Director of Policy, Planning and Research to the Chairman
 NEA 76 Executive Secretary to the Chairman
 NEA 77 Director of Public Affairs to the Chairman, National Endowment for the Arts
 NEA 78 Special Assistant to the Chairman

National Endowment for the Humanities

NEH 69 Special Assistant to the Chairman

Section 213.3384 Department of Housing and Urban Development

HUD 143 Special Assistant to the Director, Executive Scheduling
 HUD 153 Executive Assistant to the President, Government National Mortgage Association
 HUD 198 Special Assistant to the Senior Advisor to the Secretary
 HUD 216 Special Assistant to the Assistant Secretary for Administration
 HUD 249 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
 HUD 272 Deputy Assistant Secretary for Grant Programs to the Assistant Secretary for Community Planning and Development
 HUD 281 Special Administrator to Regional Administrator
 HUD 288 Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations

- HUD 292 Special Assistant to the Deputy Assistant Secretary for Economic Development
- HUD 323 Executive Assistant to the Assistant Secretary for Housing, Federal Housing Commissioner
- HUD 337 Special Assistant to the Assistant Secretary for Public Affairs
- HUD 354 Special Assistant to the Assistant Secretary for Public and Indian Housing
- HUD 385 Special Assistant to the Assistant Secretary for Public Affairs, Office of Press Relations
- HUD 387 Special Assistant to the Deputy Assistant Secretary for Public Affairs
- HUD 390 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 412 Executive Assistant to the Secretary of Housing and Urban Development
- HUD 419 Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs
- HUD 420 Scheduling Coordinator to the Director, Office of Scheduling
- HUD 421 Assistant Director to the Director, Executive Secretariat, Office of Administration
- HUD 431 Secretary's Representative (Great Plains) to the Deputy Secretary
- HUD 436 Staff Assistant to the Director, Office of Executive Scheduling
- HUD 437 Special Assistant to the Deputy Assistant Secretary for Public Affairs
- HUD 438 Director, Office of Insured Health Care Facilities to the Assistant Secretary for Housing-Federal, Housing Commissioner
- HUD 446 Senior Intergovernmental Relations Officer to the Deputy Assistant Secretary for Intergovernmental Relations
- HUD 462 Staff Assistant to the Director, Office of Executive Scheduling
- HUD 469 Special Assistant to the Deputy Assistant Secretary for Community Empowerment
- HUD 478 Special Projects Officer to the Senior Advisor to the Secretary
- HUD 482 Special Projects Officer to the Director, Special Actions Office
- HUD 483 Special Assistant (Advance/Security) to the Director, Executive Scheduling
- HUD 487 Advance/Security Coordinator to the Deputy Chief of Staff for Operations
- HUD 492 Special Assistant to the General Deputy Assistant Secretary for Community Planning and Development
- HUD 494 Intergovernmental Relations Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
- HUD 498 Special Projects Officer to the Senior Advisor to the Secretary
- HUD 505 Legislative Officer to the Deputy Assistant Secretary for Intergovernmental Relations
- HUD 506 Deputy Assistant Secretary for Community Empowerment to the Assistant Secretary for Community Planning and Development
- HUD 508 Deputy Chief of Staff for Operations to the Chief of Staff
- HUD 511 Special Projects Officer to the Secretary's Representative, Mid-Atlantic Office
- HUD 512 Deputy Assistant for Legislation to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 513 Deputy Assistant Secretary for Long Range Planning to the Assistant Secretary for Public Affairs
- HUD 514 Special Assistant to the Secretary's Representative
- HUD 520 Special Assistant to the Chief Financial Officer
- HUD 521 Deputy Assistant Secretary for Public Housing Investments to the Assistant Secretary, Public and Indian Housing
- HUD 528 Director, Intergovernmental Relations to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 529 Intergovernmental Relations Assistant to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 530 Director of Executive Secretariat (DAS for Administrative Services) to the Chief of Staff for Operations
- HUD 534 Special Assistant for Inter-Faith Community Outreach to the Director, Office of Special Actions
- HUD 539 Senior Advisor to the Deputy Secretary
- HUD 541 Director, Corporate and Constituent Outreach to the Assistant Secretary for Public Affairs
- HUD 542 Senior Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations
- HUD 543 Staff Assistant to the Director of Special Actions
- HUD 544 Special Assistant to the Director, Office of the Executive Secretariat
- HUD 545 Special Assistant to the Assistant Secretary for Federal Housing and Equal Opportunity
- HUD 546 Special Assistant to the Deputy Assistant Secretary for Community Empowerment
- HUD 547 Briefing Coordinator to the Director, Executive Scheduling
- HUD 548 General Deputy Assistant Secretary to the Assistant Secretary for Public and Indian Housing
- HUD 549 Counselor to the Assistant Secretary for Housing
- HUD 550 Intergovernmental Relations Specialist to the Assistant Secretary for Congressional and Intergovernmental Relations
- HUD 551 Scheduling Assistant to the Director of Executive Scheduling
- HUD 552 Deputy Assistant Secretary for Research to the Deputy Assistant Secretary for Policy Development
- HUD 553 General Deputy Assistant Secretary for Public Affairs to the Assistant Secretary for Public Affairs
- HUD 554 Special Assistant to the Assistant Secretary for Community Planning and Development
- HUD 555 Staff Assistant to the Director, Office of Special Programs
- HUD 556 Special Assistant to the Assistant Deputy Secretary for Field Policy and Management
- HUD 558 Special Assistant to the Director, Intergovernmental Relations
- HUD 559 Special Assistant to the Secretary's Representative
- HUD 560 Secretary's Representative-Midwest to the Deputy Secretary, Office of the Secretary's Representative
- Section 213.3389 National Mediation Board*
- NMB 52 Confidential Assistant to a Board Member
- NMB 53 Confidential Assistant to a Board Member
- NMB 54 Confidential Assistant to a Board Member
- NMB 55 Confidential Assistant to a Board Member
- Section 213.3391 Office of Personnel Management*
- OPM 65 Special Assistant to the Director, Office of Congressional Relations
- OPM 76 Speech Writer to the Director, Office of Communications
- OPM 79 Special Assistant to the Director, Office of Congressional Relations
- OPM 80 Deputy Director to the Director of Communications
- OPM 82 Deputy Director to the Director of Communications
- OPM 83 Legislative Assistant to the Director, Office of Congressional Relations
- OPM 86 Special Assistant to the Director, Office of Personnel Management
- OPM 87 Confidential Assistant to the Chief of Staff
- OPM 88 Special Assistant to the Chief of Staff

Section 213.3392 Federal Labor Relations Authority

FLRA 19 Staff Assistant to the Chairman
 FLRA 21 Director of External Affairs/ Special Projects to the Chair, Federal Labor Relations Board
 FLRA 22 Director of External Affairs/ Special Projects to the Chair, Federal Labor Relations Authority

Section 213.3393 Pension Benefit Guaranty Corporation

PBGC 7 Assistant Executive Director for Legislative Affairs to the Executive Director
 PBGC 11 Special Assistant to the Deputy Executive Director and Chief Financial Officer
 PBGC 14 Special Assistant to the Deputy Executive Director and Chief Financial Officer
 PBGC 16 Senior Advisor to the Executive Director

Section 213.3394 Department of Transportation

DOT 38 Special Assistant to the Deputy Administrator, National Highway Traffic Safety Administration
 DOT 54 Congressional Liaison Officer to the Director, Office of Congressional Affairs
 DOT 69 Director, Office of Public Affairs to the Federal Railroad Administrator
 DOT 70 Special Assistant to the Assistant Secretary for Governmental Affairs
 DOT 100 Chief, Consumer Information Division to the Director, Office of Public and Consumer Affairs
 DOT 117 Special Assistant to the Secretary of Transportation
 DOT 121 Deputy Director, Office of Congressional Affairs to the Director, Office of Congressional Affairs
 DOT 127 Special Assistant and Chief, Administrative Operations Staff to the Assistant Secretary for Budget and Programs
 DOT 129 Special Counsel to the General Counsel
 DOT 147 Special Assistant to the Assistant to the Secretary and Director of Public Affairs
 DOT 148 Associate Director of Media Relations and Special Projects to the Assistant to the Secretary and Director of Public Affairs
 DOT 150 Special Assistant to the Administrator, National Highway Traffic Safety Administration
 DOT 151 Special Assistant to the Secretary of Transportation
 DOT 159 Special Assistant to the Administrator, Federal Highway Administration

DOT 173 Senior Advisor to the Administrator, Federal Railroad Administration
 DOT 217 Special Assistant to the Associate Deputy Secretary
 DOT 235 Director for Scheduling and Advance to the Chief of Staff
 DOT 242 Deputy Director, Executive Secretariat to the Director, Executive Secretariat
 DOT 254 White House Liaison to the Chief of Staff
 DOT 265 Special Assistant to the Director, Office of External Communications
 DOT 287 Scheduling/Advance to the Director for Scheduling and Advance, Office of the Secretary
 DOT 293 Associate Director, Office of Intergovernmental and Consumer Affairs to the Director, Office of Intergovernmental Affairs
 DOT 294 Special Assistant to the Associate Deputy Secretary
 DOT 301 Director, Office of Intergovernmental Affairs to the Assistant Secretary for Governmental Affairs
 DOT 313 Director, Office of Public and Consumer Affairs to the Deputy Administrator, National Highway Traffic Safety Administration
 DOT 315 Director of Intergovernmental and Congressional Affairs to the Administrator, National Highway Traffic Safety Administration
 DOT 316 Special Assistant to the Director, Office of Scheduling and Advance
 DOT 320 Special Assistant to the Secretary of Transportation
 DOT 321 Special Projects Director to the Administrator, Research and Special Programs Administration
 DOT 324 Scheduling/Advance Assistant to the Director for Scheduling and Advance
 DOT 342 Special Assistant to the Special Assistant for Scheduling and Advance
 DOT 351 Special Assistant to the Deputy Secretary
 DOT 352 Regional Administrator, Region II, New York, N.Y. to the Deputy Administrator, Federal Transit Administration
 DOT 355 Director for Drug Enforcement and Program Compliance to the Chief of Staff
 DOT 356 Senior Congressional Liaison Officer to the Director, Office of Congressional Affairs
 DOT 357 Scheduling/Advance Assistant to the Director for Scheduling and Advance
 DOT 358 Scheduling/Advance Assistant to the Director of Scheduling and Advance

DOT 359 Senior Policy Advisor to the Deputy Secretary

Section 213.3395 Federal Emergency Management Agency

FEMA 53 Deputy Chief of Staff to the Director, Federal Emergency Management Agency
 FEMA 54 Director, Office of Emergency Information and Media Affairs to the Director, Federal Emergency Management Agency
 FEMA 55 Assistant to the Director for Special Events to the Director, Federal Emergency Management Agency
 FEMA 56 Director of Corporate Affairs to the Director, Federal Emergency Management Agency

Section 213.3396 National Transportation Safety Board

NTSB 1 Special Assistant to the Chairman
 NTSB 30 Confidential Assistant to the Chairman
 NTSB 31 Family and Government Affairs Specialist to the Director, Office of Government, Public, and Family Affairs
 NTSB 92 Special Assistant to the Managing Director
 NTSB 102 Special Assistant to a Member
 NTSB 105 Confidential Assistant to the Chairman
 NTSB 106 Director, of Governmental Affairs to the Director, Office of Government, Public and Family Affairs
 NTSB 107 Special Assistant to the Director, Office of Government, Public, and Family Matters

Section 213.3397 Federal Housing Finance Board

FHFB 5 Special Assistant to the Chairman

Senior Level Schedule C Positions (Above GS-15)

Section 213.3342 Export-Import Bank
 Assistant to the Chairman
 Vice President for Communications to the Chairman
 General Counsel to the Chairman
 Special Counselor to the President and Chairman

Section 213.3382 National Endowment for the Arts

Executive Director, President's Commission on the Arts and Humanities to the President of the United States

Section 213.3343 Farm Credit Administration

Secretary of the Board to the Chairman

Executive Assistant to the Chairman of
the Board

Director, Congressional and Public
Affairs, to the Chairman

Executive Assistant to the Members

*Section 213.3393 Pension Benefit
Guaranty Corporation*

Executive Director to the President

Deputy Executive Director and Chief
Negotiator to the Executive Director

Deputy Executive Director and Chief
Financial Officer to the Executive
Director

*Section 213.3333 Federal Deposit
Insurance Corporation*

General Counsel to the Chairman
Special Advisor to the Chairman

*Section 213.3305 Department of the
Treasury*

Chief of Staff to the Comptroller

Office of Thrift Supervision

Executive Director, External Affairs to
the Director

Authority: 5 U.S.C. 3301 and 3302; E.O.
10577, 3 CFR 1954–1958 Comp., P.218.

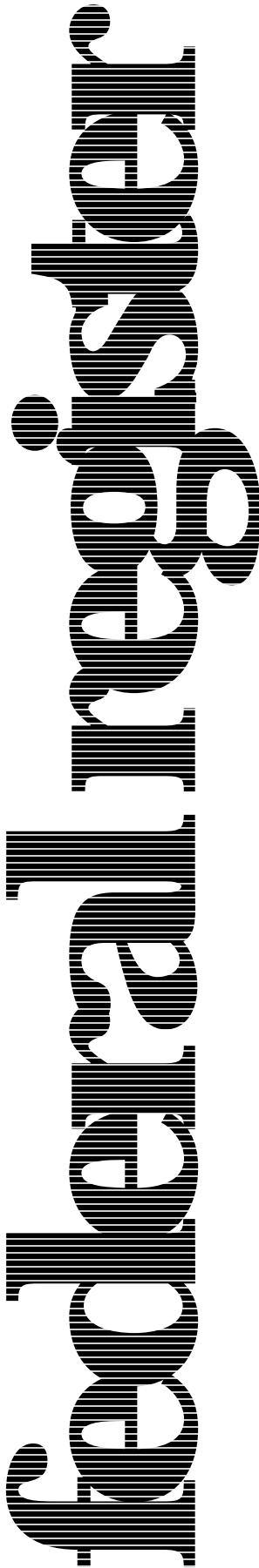
Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–24802 Filed 9–16–98; 8:45 am]

BILLING CODE 6325–01–P



Thursday
September 17, 1998

Part III

**Securities and
Exchange
Commission**

**Self-Regulatory Organizations: Proposed
Rule Change Filing and American Stock
Exchange, Inc. Amendment No. 1 Thereto
Relating to the Combination of American
Stock Exchange, Inc. and National
Association of Securities Dealers, Inc.
Changes; Notice**

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40426; File No. SR-Amex-98-32]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange, Inc. Relating to Changes to the Combination of the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc.

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 3, 1998, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. Amex filed an amendment to the proposed rule change on September 8, 1998.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex is proposing certain changes to its Constitution and Rules that will become effective at the time they become the Constitution and Rules of the American Stock Exchange LLC (referred to herein as "New Amex" or "Exchange"). New Amex is a limited liability company that will assume the functions and succeed to the exchange registration of the Amex upon closing of the transaction among the Amex, the National Association of Securities Dealers, Inc. ("NASD") and other parties specified in the Transaction Agreement, dated as of May 8, 1998. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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, including the proposed amendments to the Constitution and various rules attached here as Exhibits A and B, may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to implement changes to the current Constitution and Rules of the Amex that will become effective at the time they become the Constitution and Rules of New Amex at the time of the closing of the transaction ("the Closing") among the Amex, the NASD and other parties specified in the Transaction Agreement, dated as of May 8, 1998, whereby the Amex will become a subsidiary of the NASD.⁴ By means of the proposed transaction, the NASD and the Amex desire to effect a combination to create a new more electronic, centralized floor based specialist auction market for equities and a more technologically competitive and efficient centralized market for standardized options.

On March 18, 1998, the NASD and the Amex jointly announced that the NASD Board of Governors and the Amex Board of Governors approved an agreement in principle to bring the Amex into the NASD family of companies, subject to finalization of a definitive agreement and approval by Amex members. On April 8, 1998, the Amex Board approved the terms of that definitive agreement, which was signed by the NASD and the Amex as of May 8, 1998. In connection with Amex member approval of the agreement, the Amex sent to all 864

Amex Regular Members and Options Principal Members (referred to collectively as "Members") an Information Memorandum, dated May 14, 1998, describing the transaction in detail. Attached as exhibits to the Information Memorandum were the Restated Certificate of Incorporation and the new By-Laws of Amex Corp. (as hereinafter defined), and the Constitution of New Amex. Members also were provided with Transaction Documents relating to the transaction. These included, among other items, the Transaction Agreement and exhibits thereto, including the Limited Liability Company Agreement of New Amex ("LLC Agreement") and the Technology Transfer and Development Agreement. At a Special Meeting of Members on June 25, 1998, the Members approved the transaction by a vote of 622 to 206. On August 6, 1998, the NASD Board of Governors authorized filing of a rule change with the Commission to amend NASD By-Laws to provide that the NASD Board will include the Chief Executive Officer of New Amex and one Floor Governor from the New Amex Board, as required by the Transaction Agreement. Final action with respect to the proposed amendments to the NASD By-Laws will not occur until a vote of the NASD membership is completed. The proposed amendments have been filed pursuant to Rule 19b-4 under the Act (SR-NASD-98-56), and were published for member vote on August 7, 1998, in NASD Notice to Members 98-64. The last day for member vote is September 14, 1998.

Following the Closing, New Amex will be a national securities exchange registered under Section 6 of the Exchange Act operating a separate floor-based specialist auction market with its own members and listed securities.⁵ At the Closing, New Amex will succeed to the exchange registration of Amex, and New Amex will promptly file necessary amendments to the Exchange's registration as a national securities exchange on Form 1-A, pursuant to Rule 6a-1 under the Act. Current Amex rules will become the rules of New Amex on the date of the Closing, amended only as described herein. Any amendments to such rules proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter to Michael Walinskas, Deputy Associate Director, Commission, from William Floyd Jones, Jr., Assistant General Counsel, Amex, dated September 4, 1998 ("Amendment No. 1"). Amendment No. 1 adds a definition of "NASD Nominating Committee" to the Constitution. It also corrects a change to Amex Rule 345 by clarifying that any one member of the Amex Adjudicatory Committee ("AAC") may require a review of a Disciplinary Panel Decision by the full AAC. (Originally, the change to Amex Rule 345 erroneously provided that four members of the AAC were needed to call a disciplinary matter for review.)

⁴ In addition to the NASD and Amex, parties to the Transaction Agreement include NASD Market Holding Company, a wholly-owned subsidiary of the NASD; New Amex LLC, a Delaware Limited Liability Company; and the following subsidiaries of the Amex: American Stock Exchange Clearing Corporation; American Stock Exchange Realty Associates, Inc.; Amex Commodities Corporation; and PDR Services Corporation.

⁵ The Information Memorandum referred to above notes that "[t]he NASD, as the parent company of New Amex, will bear ultimate responsibility to ensure that New Amex meets its statutory obligations and that the necessary and appropriate resources are available to New Amex's compliance department to meet the evolving demands of operating a regulatory and compliance program in an advanced marketplace." (Information Memorandum at p. 40.) The NASD has undertaken to make its own rule filing with the Commission to this effect pursuant to Rule 19b-4.

after the Closing will be filed by New Amex pursuant to Rule 19b-4. New Amex will also succeed to any proposed rule change filed with the Commission by Amex before the Closing but not approved by the Commission by that time, and when ultimately approved such proposal will change the rules of New Amex.

For tax planning and other technical reasons, Amex will continue to exist as a corporate entity, and after the Closing its name will be changed to The Amex Corporation (hereinafter, "Amex Corp."). The right to trade on the Exchange will continue to be embodied in Memberships which are in fact interests in Amex Corp., although New Amex will have the authority and responsibility to approve transfers of such Memberships and changes in the "approved persons" of a Member or Member Organization, and there is proposed herein no change in the rules and policies applicable to that process.⁶

Generally, after the Closing, all the voting power in New Amex concerning the operation of the Exchange will be vested in the NASD. However, under the Transaction Agreement there are certain actions affecting the Members that require their consent, including the creation and issuance of new memberships, and material market structure changes for certain periods of time, and the principal function of Amex Corp. will be to implement the votes necessary to obtain these consents. Amex Corp. will have its own Board, which will be comprised of the Floor Governors on the New Amex Board. (The Board structure of New Amex is

discussed below.) After the Closing, Regular and Options Principal Members will have equal voting rights and will vote on matters together as a single class. Amex Corp. will have an otherwise nonvoting interest in New Amex with certain preferential liquidation rights, and the NASD will have a voting interest in New Amex. For tax consolidation reasons, the NASD will own its interest in New Amex and the Nasdaq Stock Market through NASD Market Holding Company, a wholly-owned subsidiary of the NASD.

The LLC Agreement will establish Amex Corp.'s and the NASD's rights and obligations as owners of New Amex and vest the New Amex Board with its management powers. The NASD may not amend the LLC Agreement except with the consent of Amex Corp., which may grant such consent with the approval of its Board, except for any amendment which would constitute a change otherwise requiring consent of Amex Corp. (as authorized by the Members) under the Transaction Documents.

The Information Memorandum and Transaction Documents also describe the New Equity Market Structure which will be introduced on the Exchange after the Closing, initially as a pilot program, and which will provide a system for the automatic execution of electronically delivered orders as well as a new electronic order book. The New Equity Market Structure is not the subject of this filing, but, instead, will be the subject of one or more additional filings pursuant to Rule 19b-4, which will be submitted to the Commission as soon as practicable. Until any such changes are approved by the Commission, the Exchange market structure for equities will remain unchanged and orders will be entered and executed as they are currently.

New Amex Constitution and Rules. New Amex's Constitution will include amendments to the current Amex Constitution, which in large part reflect changes provided for under the Transaction Agreement. Otherwise, New Amex's Constitution and Rules will be essentially the same as the current Amex Constitution and Rules. The following is a summary of amendments made to the current Amex Constitution and Rules. Non-substantive and stylistic changes are not discussed. The text of the New Amex Constitution is attached hereto as Exhibit A. Amendments to the text of various Amex rules are attached hereto as Exhibit B.

Article I—Title—Purposes—Definitions. Section .01 (Title) would replace "Corporation" with "Company" and "American Stock Exchange, Inc."

with "American Stock Exchange LLC" to reflect the new legal status of the Exchange as a Limited Liability Company.

Section .02 (Purposes) would delete references to the Exchange functioning as a "board of trade" under current Section .02(b)⁷ and would provide under new Section .02(c) that the Exchange conducts its activities under Delaware Limited Liability Law.

Section .03(c) defines "Regular Member" as a person holding a regular trading right issued by Amex Corp. The term "regular trading right" is defined as the right to transact business on the Floor of the Exchange generally.

Section .03(d), which replaces current Article IV, Sec. 1(b)(4) of the Exchange Constitution, similarly defines the term "options principal member" as a person holding an options principal trading right issued by Amex Corp. Such right means "the right to execute on the Floor of the Exchange transactions in options and other derivative products for the right holder's own account and to give proprietary orders in such securities to Regular Members for execution. The term "derivative product" remains substantially the same as the definition in current Article IV, Sec. 1(b)(4).

Paragraphs (s) and (r) define the terms "NASD" and "Nasdaq," respectively. Paragraph (u) defines the "Transaction Agreement," which is referenced earlier herein. Paragraph (v) defines "Predecessor Corporation" as the American Stock Exchange, Inc. prior to the date of the Transaction Agreement, and The Amex Corporation after that date. Paragraph (w) defines "Amex Committee" discussed below. Paragraph (x) defines the term "Class A Interest" as the limited liability company interest in the Exchange initially issued to Predecessor Corporation. Paragraph (y) defines "Class B Interest" as the limited liability company interest in the Exchange initially issued to NASD Market Holding Company, a wholly-owned subsidiary of the NASD. "Class A Interest" and "Class B Interest" are further referenced in Article II, discussed below. Paragraph (z) defines "The Amex Corporation" as the New York Not-for-Profit Corporation that holds the Class A Interest in the Exchange. Paragraph (aa) defines the term "NASD Nominating Committee" as the National Nominating Committee appointed pursuant to Article VII Section 9 of the NASD By-Laws.

Article II ("Government and Administration"). Article II of the New

⁶The Exchange scrutinizes and must approve not only those seeking to be active on the Exchange trading floor, but also those who seek only to own a Membership which will then be leased to another. Article I, Section 3(g) of the Exchange Constitution defines an "approved person" to include, *inter alia*, "a person who is the owner of a membership held or to be held subject to a special transfer agreement" [i.e., a lease]. In addition, the rules of the Exchange, in the section entitled "Admission of Members and Member Organizations", state that:

An individual or organization may purchase one or more regular or options principal memberships, and must file an application with Membership Services to become the owner of such membership(s) and either a member, member organization or approved person. Applicants desiring only to own a membership nonetheless shall be subject to the same requirements and procedures as are specified below for members or member organizations, as the case may be, except for the requirements to be registered as or associated with a broker-dealer and to pass the physical examination.

Finally, the Restated Certificate of Incorporation of Amex Corp., which will come into effect on the Closing Date, provides in Section 4(6) thereof that no right to trade on New Amex shall be transferred or leased apart from the Membership in respect of which it was made available, and that the exercise, transfer and lease of such trading right is subject to the Constitution of New Amex.

⁷"Board of trade" is a term utilized in the New York Not-for-Profit Corporation Law (see § 1410) and becomes unnecessary when the Exchange becomes a creature of Delaware law.

Amex Constitution ("Government and Administration") would combine the subject matter currently addressed by Articles II and III of the current Amex Constitution. As a result, the New Amex Constitution would reserve Article III.

Article II, Section 1 of the New Amex Constitution ("The Board of Governors "Classification") describes the New Amex Board and the selection of Board members. The New Amex Board would consist of 18 persons: four Floor Governors (at least one of whom must be an equity specialist and at least one of whom must be a Registered Options Trader ("ROT")),⁸ two Upstairs Industry Governors (i.e., members affiliated with broker-dealers that have substantial contact with public customers), eight Public Governors, the two most senior members of the New Amex staff and two representatives of the NASD staff.⁹ The NASD has undertaken to include as one of the two representatives of the NASD staff a person that meets the qualifications of Public Governor on the New Amex Board. The NASD will file this undertaking with the Commission pursuant to Rule 19b-4.

The eight Public Governors and two Upstairs Industry Governors would be nominated and elected by the NASD. The four Floor Governors would be nominated by Amex Corp. and elected by the NASD.¹⁰ The NASD, however, may reject a Floor Governor nominee only if (i) the nominee is subject to a statutory disqualification, (ii) the nominee is subject to a proceeding or investigation which could result in a statutory disqualification, or (iii) the nominee has been disciplined by a securities SRO with respect to a matter involving fraud or a serious violation of U.S. securities laws. In the event the NASD rejects a Floor Governor nominee, the Amex Corp. has the right to select a substitute nominee. The procedure for nominating and electing Floor Governors has been designed to ensure that Members have the greatest possible discretion, consistent with

sound regulatory policy, in selecting their representatives to the New Amex Board.

Governors would serve two year terms in office. The four Floor Governors would be divided into two classes of two each; the first class would include an equity specialist and the second class would include an ROT. The other elected governors also would be divided into two classes each consisting of one Upstairs Industry Governor and four Public Governors. The term of the first class would expire in 1999 and the term of the second class would expire in 2000. Elected governors would be eligible to serve no more than three consecutive two year terms, except that governors in the class of 1999 and any elected governor appointed to serve for one year or less by reason of a vacancy may be elected to serve three subsequent consecutive two year terms. Article II, Sec. .01(b) provides that all elected governors other than the four Floor Governors shall be nominated and elected by the holder of the Class B Interest (the NASD Market Holding Company). The term "elected governors" does not encompass governors who are Exchange officers or representatives of the NASD staff, who are appointed by the Exchange or the NASD, respectively.

Floor Governor nominees would be proposed either by the Amex Nominating Committee or by petition signed by 25 Members and would be selected by a plurality of the Regular and Options Principal Members voting together as a single class. The Amex Nominating Committee would consist of five persons: three floor Members and two persons having no affiliation with a registered broker or dealer ("Public Members"). Each of the three principal business activities on the floor, a registered specialist, a registered options trader, and a floor broker, would be represented on the Amex Nominating Committee. The composition of the Amex Nominating Committee and the criteria for Floor Governor nominees are intended to ensure representation of the principal floor business activities on the New Amex Board. While the existence and behavior of the Amex Nominating Committee is described in the New Amex Constitution, the Amex Nominating Committee is a committee of Amex Corp., under the By-Laws of Amex Corp.

The Amex Nominating Committee would be divided into two classes: the first (terminating in 1999) would consist of a Public Member and specialist, and the second (terminating in 2000) would consist of a Public Member, a floor broker and an ROT. Persons on the

Amex Nominating Committee could not serve consecutive terms. No one affiliated with a member of the Amex Nominating Committee would be eligible as a candidate for a ticket named by it. In addition to proposing Floor Governor nominees, the Amex Nominating Committee also would propose nominees for Trustees of the Gratuity Fund, the Amex Nominating Committee, and Amex Adjudicatory Council. Candidates for these positions can also be nominated through the independent petition process described above. Members of the Trustees of the Gratuity Fund, Amex Nominating Committee and the Amex Adjudicatory Council would be elected by a plurality of Members voting together as a single class.

Section 2 of Article II of the New Amex Constitution concerns vacancies on the Board and in offices elected by the Board and generally tracks Article III, Section 9 of the current Amex Constitution. Whereas the old provision required simply a recommendation of the nominating committee, the new provision recognizes that the recommendation must come from Amex Corp., in the case of Floor Governors, and from the NASD in the case of all other Governors. The recommendation from Amex Corp. will be made by the Amex Corp. Nominating Committee and the recommendation from the NASD will be made by the NASD Nominating Committee. As with current Amex procedures, persons appointed to fill such vacancies will serve until the next annual election.

Section 3 of Article II of the New Amex Constitution ("Powers, Duties and Procedures") describes the powers of the New Amex Board and generally tracks Article II, Section 2 of the current Amex Constitution. A principal distinction between the two provisions arises from the requirement in the New Amex Constitution that the Board may not take any action that requires the consent of Amex Corp., the Amex Committee, or both under the terms of the Transaction Agreement without first obtaining such consent.

Section 3 of Article II of the New Amex Constitution deletes language excepting the Nominating Committee from among the committees that may be dissolved by the New Amex Board. Such language is no longer necessary since, as noted above, the Amex Nominating Committee is a committee of Amex Corp., and hence could not in any event be dissolved by the New Amex Board.

Section 3 of Article II ("Appeal") deletes references to the Executive Committee. New Amex will not have an

⁸The Transaction Agreement provides that on the tenth anniversary of the closing date, one additional Floor Governor would be added to the New Amex Board. The fifth Floor Governor is intended to provide Members with additional representation on the Board upon the expiration of certain contractual provisions in the Transaction Agreement.

⁹As noted above, the NASD Board would include one Floor Governor from the New Amex Board and the Chief Executive Officer of New Amex. Such Floor Governor on the NASD Board would be selected by the New Amex Board, subject to approval by the NASD National Nominating Committee. These additions to the NASD Board would begin in January 1999.

¹⁰The NASD, acting through its Board or a Board representative, will cast the vote of the holder of the Class B Interest for all elected governors, including the four Floor Governors.

Executive Committee, at least at the outset, since it is anticipated that all necessary functions can be handled by the full Board, the Amex Adjudicatory Council (discussed within) and other special or standing committees. Note that Section 3 of Article II ("Delegation of Powers") permits the New Amex Board to delegate such of its powers as it may determine consistent with the Constitution and applicable law to one or more committees composed either of governors or other persons.

The elimination of the Executive Committee from the governance structure of New Amex requires a modest amendment to Section 1010 of the *Amex Company Guide* to provide that review of delisting recommendations by the Committee on Securities may be handled by a review committee appointed by the Board rather than by the Executive Committee. (Subsequent deletions of references to the Executive Committee in the text of the New Amex Constitution generally will not be further noted in this discussion.) Conforming proposed changes to Section 1010 of the *Amex Company Guide* are included in Exhibit B to this filing.

Section 3 of Article II ("Delegation in Emergency") was deleted as superfluous in view of Article XII ("Authority to Take Action Under Emergency or Extraordinary Market").

Section 3 of Article II ("Selection of Chairman") would continue to provide that the Chief Executive Officer of the Exchange, who shall be Chairman of the Board, shall be elected by a majority of the entire Board. The section would be modified to provide for only one Vice Chairman and to require that this person be a Floor Governor. More than one Vice Chairman would be superfluous given the structure of New Amex as a subsidiary of the NASD. In addition, limiting the position of Vice Chairman to Floor Governors should enhance the representation of Members on the New Amex Board.

The New Amex Constitution eliminates current Article II, Section 2 ("Selection of General Counsel") in its entirety. This provision contemplated the appointment of a single outside general counsel and such a provision is archaic and needlessly restrictive in this era of legal specialization. It also appears inconsistent with the structure of New Amex as a subsidiary of the NASD.

Section 3 of Article II ("Members, Member Organizations and Approved Persons") would delete reference to a requirement that only Regular Members may be specialists in view of the creation of Class C Trading Rights

(discussed within). The prohibition on Options Principal Members and Limited Trading Permit Holders acting as specialists would be continued.

Section 4 of Article II ("Officers of the Exchange") corresponds to Article II, Section 3 of the current Amex Constitution and generally tracks its terms. Section 4(a) of Article II would be amended to eliminate the Chairman's status as an ex-officio member of all committees. This change clarifies that the Chairman is not a member of certain committees (e.g., the Amex Adjudicatory Council). Section 4(a) would be further amended to provide that the Chairman shall call a special meeting of the Board upon the written request of three rather than four governors (reflecting the reduced size of the Board). In addition, Section 4(a) has been further amended to eliminate the position of "Executive Vice Chairman" as unnecessary. This position has, in fact, never been occupied and no need was seen for it within the current governance structure. In addition, Section 4(a) would be amended to delete references to the Chairman's ability to call special meetings of regular members of the Exchange upon direction of the Board or upon the written request of 50 regular members. This amendment is appropriate because Amex members will no longer be corporate owners of Amex after the Closing. Instead, NASD Market Holding Company and Amex Corp. will be the corporate owners of New Amex. Any meetings of Members would be conducted under the By-Laws of Amex Corp. in the circumstances specified therein and would not be governed by the New Amex Constitution.

Various changes are proposed to Section 4(b) of Article II ("Vice Chairman") to reflect the fact that there would be only one Vice Chairman and to specify that the person occupying this position must be a Floor Governor.

Section 5 of Article II of the New Amex Constitution ("Committees") corresponds to Section 4 of Article II of the current Amex Constitution. As previously noted, the Executive Committee would be eliminated from the New Amex governance structure. There are no other substantive changes to Section 5.

Section 5 of Article II of the current Amex Constitution ("Indemnification") would be entirely eliminated from the Constitution of the New Amex. Indemnification by the Exchange of persons associated with it (e.g., Governors, officers and employees) is covered through the provisions in the LLC Agreement.

Section 6 of Article II creates the "Amex Adjudicatory Council," ("AAC") to act for the full Board in reviewing appeals from disciplinary proceedings. Modeled on NASD Regulation's National Adjudicatory Council, the AAC would consist of six persons, three of whom would be Floor Governors and three of whom would be Public Governors. AAC members would be nominated by the Amex Nominating Committee or by independent petition signed by at least 25 Members and would be elected by the Regular and Options Principal Members voting together as a single class. AAC members would be divided into two classes. The first class (terminating in 1999) would consist of two Floor Governors and one Public Governor. The second class (terminating in 2000) would consist of one Floor Governor and two Public Governors. Apart from the members of the first class whose terms would expire in 1999, AAC members would be elected to two year terms. Beginning with the class elected in 2000, no AAC member could serve more than two consecutive terms unless the member initially was appointed to fill a term of less than one year, in which case the member could serve up to two consecutive terms following the expiration of the initial term.

A quorum of the AAC would be four persons. In the event of a tie vote, the decision that was the subject of the review would be upheld. The Board would have a discretionary right to review decisions of the AAC as set forth in Article V of the New Amex Constitution (described within).

Article III (Reserved). As described above, Article III would be reserved in the New Amex Constitution.

Article IV ("Membership"). Article IV of the New Amex Constitution concerns membership and corresponds to Article IV of the current Amex Constitution. Section 1(a)(1) would be amended to reduce the number of Regular Memberships from 675 to 661 to reflect the fact that only 661 Regular Memberships currently are outstanding. (675 memberships had been authorized, but only 661 were issued.) Section 1(a)(1) would be further amended to provide that the number of Regular Memberships may be increased only if such action is consented to by Amex Corp., which as noted earlier would require a Membership vote. A conforming change would be made to Section 1(b)(1) of Article IV regarding Options Principal Memberships. Sections 1(a)(2) and 1(b)(2) of Article IV also would be amended to confirm that NASD Market Holding Company may hold Regular and Options Principal

Memberships. This change will facilitate the "Seat Market Program," which is described below. Note that under the Transaction Agreement, Memberships held by NASD Market Holding Company shall not be voted, either by NASD Market Holding Company or any lessee.

Section 1(a)(3) of Article IV ("Signing Constitution") would be amended to state that any regular member or lessee, by exercising any of the rights inherent in a regular trading right, shall be deemed to have pledged to abide by the New Amex Constitution. Section 1(b)(3) adds a similar provision applicable to options principal members or lessees. The purpose of these provisions is to clarify that existing Members will continue to be subject to the jurisdiction of New Amex.

Section 1(b)(4) of Article IV of the current Amex Constitution defines the trading privileges of Options Principal Members and would be transferred without substantive change to Article I, Section 3(d) of the New Amex Constitution (the definition of "Options Principal Member," "Options Principal Trading Right" and "Derivative Products").

Section 1(e) of Article IV ("Exchange Liability") would be amended to modernize the provision and to reflect the fact that the Exchange provides services as well as facilities to its members. The Commission recently reviewed and approved virtually identical language in connection with amendments to Chicago Board Options Exchange Rule 6.7.¹¹

Section 1(g) of Article IV ("Approval of Membership Matters") provides a procedure by which members may challenge determinations of the Exchange's administration made pursuant to Section 1 of Article IV. The appeal procedure would be clarified to eliminate the possibility of a review by an Exchange Disciplinary Panel which properly should consider only rule violations and not the Exchange staff determinations that are the subject of Section 1.

Section 1(h) of Article IV of the current Amex Constitution which concerns "fixed income security options trading permits" and "options trading permits" would be deleted in its entirety since both of these classes of trading permit have expired. Section 1(j) of Article IV of the current Amex Constitution ("Limited Trading Permits") would be renumbered as Section 1(h) in the New Amex

Constitution. The provisions regarding Limited Trading Permits ("LTPs") would be amended to reduce the maximum number of such permits from 36 to 10 to reflect the fact that there currently are only 10 outstanding.

Section 1(i) of Article IV ("Class C Trading Rights") is entirely new and provides for the creation of up to 25 trading rights that would allow holders to specialize in newly listed securities that they are responsible for bringing to the Exchange. Class C Trading Rights would have a limited life and would expire on the earlier of three years from the date of issuance or the fifth anniversary of the Closing. These permits are intended to attract firms that are not currently involved in specializing on the Exchange to bring substantial new listings to the Exchange. Accordingly, holders of Class C Trading Rights only would be eligible to be allocated securities that they brought to the Exchange, and they could not operate a joint book with a Regular Member. (A specialist holding a Limited Specialist Trading Right who then becomes a Regular Member shall be considered to have continued his registration as a specialist in the securities allocated to him without any need to submit to a further allocation process.) The New Amex Board would determine when and to whom to issue Class C Trading Rights, and the fees, dues and other charges that would be applicable. Class C Trading Rights would not be transferable except by reason of a business combination, reorganization or other transfer of all or substantially all of the assets from one member organization to another. Class C Trading Rights may be issued to qualified individuals or organizations who are instrumental in obtaining new listings of securities admitted to dealings on the Exchange that are judged by the Exchange to constitute demonstrable product. The Exchange will exercise its judgment in this matter based on both the quantity and quality of listings brought to the Exchange.

Section 1(j) of Article IV of the New Amex Constitution ("New Trading Rights") is entirely new and would prohibit the New Amex Board from issuing new forms of trading privileges, other than the 25 Class C Trading Rights authorized by Section 1(i), or grant materially new rights to the holders of existing privileges, without the consent of Amex Corp., which as noted above would require a vote of Members. This provision is intended to place limits on the ability of the New Amex Board to dilute the value of existing memberships through the unrestricted issuance of new trading rights.

There are no substantive changes to Sections 2, 3 and 4 of Article IV of the New Amex Constitution.

Section 5(a) of Article IV ("Reinstatement by Board") would be amended to eliminate reference to the Executive Committee.

There are no substantive changes to Sections 6 and 7 of Article IV.

Article V (Discipline of Members). Article V of the New Amex Constitution corresponds to Article V of the current Amex Constitution. The principal change to the Exchange's disciplinary process concerns the creation of the AAC to review appeals of right from Disciplinary Panel decisions and the consequent elimination of the Board and Executive Committee from this function. This change is intended to ensure that Members will be fairly represented in the disciplinary process. The Board, however, will be able to review AAC decisions on a discretionary basis. In the absence of such discretionary review by the Board, a decision by the AAC will be the final action of the Exchange.

Section 1(c) of Article V of the New Amex Constitution establishes the procedures for AAC review of Disciplinary Panel decisions and generally tracks the current procedures for Board review of Disciplinary Panel decisions. Respondents in contested disciplinary proceedings can take an appeal of right to the AAC, and any member of the AAC may require the review of a Disciplinary Panel decision by the full AAC. Proposed written decisions of the AAC in contested proceedings are provided to all members of the Board.

Section 1(d) of the New Amex Constitution is based upon procedures currently in place at the NASD with respect to discretionary NASD Board review of National Adjudicatory Council decisions.¹² Any four members of the New Amex Board may require Board review of an AAC decision. Ten governors would constitute a quorum at a meeting where a decision by the AAC is reviewed and a majority vote of the governors present at the meeting would be required to modify, reverse or remand the decision. If the Board does not call the matter for review, the decision would become the final action of the Exchange.

Section 2 of Article V ("Stipulation of Facts and Consent to Penalty") would be amended to provide that the AAC may review settlements of disciplinary proceedings that have been approved by a Disciplinary Panel. If the AAC rejects

¹¹ Exchange Act Release No. 37421 (July 11, 1996), 61 FR 37513 (July 18, 1996) (order approving SR-CBOE-96-02).

¹² NASD Manual—Code of Procedure Rule 9351 ("Discretionary Review by NASD Board").

the settlement, the matter would proceed before a Disciplinary Panel as if the settlement had never occurred. The AAC may reject a settlement or impose a lesser penalty upon a respondent; it cannot increase the penalty. AAC decisions to reject a settlement would not be subject to Board review but would proceed before a Disciplinary Panel as if the settlement had not occurred. AAC decisions with respect to settlements (other than rejections) would constitute the final action of the Exchange.

Section 3(f) of Article V concerns hearings following the summary suspension of a member or member organization for financial or operational reasons and has been amended to eliminate reference to the Executive Committee.

There are no material changes to Section 4 of Article V of the New Amex Constitution.

Section 5(b) of Article V would be modified to state that Disciplinary Panel decisions would be sent to the AAC rather than to the Board.

Article V only concerns the discipline of members and member organizations, and Exchange Rule 345 ("Determinations Involving Employees and Prospective Employees") sets forth the procedures applicable to disciplinary proceeding against persons associated with members and member organizations. Article V and Exchange Rule 345 largely parallel one another, and it accordingly is necessary to amend Rule 345 to provide for AAC review of disciplinary matters. The substitution of the AAC for the Board as the Exchange's appellate body also would require modest amendment to Rules 8 and 9 of the rules of procedure applicable to Exchange disciplinary proceedings, and Rule 590 ("Minor Rule Violation Fine Systems"). Conforming proposed changes to Rules 345 (disciplinary proceedings against employees of members and member organizations), Rule 590 (Minor Rule Violation Fine System) and Rules 8 and 9 of the rules of procedure applicable to Exchange disciplinary proceedings are included in Exhibit B to this filing.

Article VI. Article VI is intentionally omitted from the Constitution of New Amex. This Article in the current Amex Constitution had been rescinded effective May 1, 1976.

Article VII ("Fees and Dues"). Article VII of the New Amex Constitution ("Fees and Dues") corresponds to Article VII of the current Amex Constitution. Sections 1(a) and 1(b) would be amended to provide a flat rate initiation fee of \$2,500 for Regular and Options Principal Members. This fixed

initiation fee replaces the former graduated initiation fee schedule that has become obsolete with the increase in seat prices. (The old formula established a base initiation fee of \$1,000 that increased to a maximum of \$2,500 when seat prices rose above \$20,000.) Two additional obsolete provisions also would be deleted from Section 1(a) ("Transfer of Chairman's membership" and "Associate membership of Chairman"). These provisions dated from a time when the Chairman of the Board was chosen from among the Members of the Exchange.

There are no substantive changes to Sections 2 and 3 to Article VII of the New Amex Constitution.

Section 4 and Section 5 to Article VII of the New Amex Constitution would be amended to make explicit the implicit authority of the Board to set different charges for different services and securities. Such charges would be subject to filing with the Commission.

Article VIII ("Arbitration Procedure"). Article VIII of the New Amex Constitution corresponds to Article VIII of the current Amex Constitution. Changes would be made to Article VIII to effect a gradual phase-out of the Exchange's arbitration program and the transfer of this program to NASD Regulation. NASD Regulation currently administers in excess of 6,000 arbitrations whereas the Amex currently administers approximately 50 such proceedings. The Exchange, accordingly, believes that it would be rational to consolidate all arbitrations under the NASD umbrella with NASD Regulation.

There are no substantive changes to Section 1 of Article VIII ("Duty to Arbitrate").

Section 3 of Article VIII of the current Amex Constitution ("Rules of Arbitration") would be deleted in its entirety and replaced by new Section 3 ("Proceeding Instituted Prior to Combination"). The new Section 3 would provide that any arbitration filed prior to the Closing would be conducted by means of the arbitration facilities and procedures that existed as of the date the arbitration was instituted. Section 2 of Article VIII ("Arbitration Forum") has been amended to provide that actions filed subsequent to the Closing would be conducted pursuant to the NASD Code of Arbitration Procedure using the arbitration facilities of NASD Regulation, Inc. although the existing provision allowing use of the New York Stock Exchange arbitration procedures if all parties to the controversy are members there is preserved. Section 2(a) (which permitted the Board to decline to permit the use of the Exchange's

arbitration facilities in particular cases) and Section 2(c) (which permitted arbitration before the American Arbitration Association in certain circumstances) would be deleted in view of the complete assumption by NASD Regulation of the Exchange's arbitration program and the adoption of the NASD Code of Arbitration Procedure. Section 4 ("Arbitrator's Decision Final") also would be deleted due to the adoption of the NASD's Code of Arbitration Procedure and NASD Regulation's assumption of the arbitration program.

Section 5 of Article VIII ("Penalties") in the current Amex Constitution would be renumbered as Section 4. Section 4(b) would be amended to provide that New Amex may summarily suspend persons within its jurisdiction that fail to pay an arbitration award of an exchange or the NASD. Conforming proposed changes to the 600 series of current Amex rules relating to arbitrations are included in Exhibit B to this filing. Commentary would be added to the Rule 600 Series advising litigants that the Rule 600 series only would apply to arbitrations commenced prior to the Closing and would otherwise be of no force or effect. In addition, the Commentary would advise members and member organizations of the requirements of Article VIII, Section 2 of the Exchange Constitution (discussed above), and would state that any violation of the NASD Code of Arbitration Procedures by members and member organizations would be deemed a violation of Exchange rules and be subject to Exchange disciplinary procedures.

Article IX ("Gratuity Fund"). Provisions relating to the Gratuity Fund will remain substantially unchanged from current provisions in Article IX, except for procedures relating to appointment of Gratuity Fund trustees. Section 7 ("Income of Fund") adds new language providing for proportional credits to each participant in reduction of such participant's payments under Article IX in the event the Gratuity Fund receives any extraordinary payment from any source. Section 10 ("Classification and Selection of Trustees") would provide that Trustees of the Gratuity Fund shall be appointed by Amex Corp., based on the vote of the regular and OPM members of the Exchange. This will essentially maintain the current process by which trustees are nominated and elected in the same manner, and at the same time, as governors of the Exchange, pursuant to procedures in Article III. Section 11 would provide that in the event of a vacancy, the board of Amex Corp. shall

appoint a person qualified to serve as Trustee until the next meeting at which the Trustees to be appointed are selected. Currently, the Amex Board fills any vacancy, pending the next annual election. These procedures are consistent with procedures in the New By-Laws of Amex Corp. which provide for the election by members of Amex Corp. of Trustees of the Gratuity Fund, as well as the Amex Nominating Committee, Amex Adjudicatory Council, and nominees for Floor Governors to serve on the New Amex Board.

Article X ("Clearing Organizations"). Article X of the New Amex Constitution corresponds to Article X of the current Amex Constitution. There are no substantive changes to Article X.

Article XI ("Miscellaneous Provisions"). Article XI of the New Amex Constitution corresponds to Article XI of the current Amex Constitution. There are no substantive changes to Sections 1 through 4 of Article XI. Section 5 of Article XI would be amended to conform to the current Amex employee trading policy, which allows employees to trade standardized options issued by the Options Clearing Corporation unless such option is on an underlying security listed on the Amex. Section 6 would be added to state that the New Amex Constitution shall be governed by, and construed in accordance with, Delaware law without regard to Delaware conflict of laws principles.

Article XII ("Authority To Take Action Under Emergency or Extraordinary Market Conditions"). Article XII of the current Amex Constitution would be deleted in its entirety and replaced by a provision comparable to Article VII, Section 3 of the NASD's By-Laws. In addition, Article XII of the current Amex Constitution currently references emergency by-laws under Subdivision 17 of Section 12 of the New York State Defense Emergency Act and to the effectiveness of emergency by-laws of New York Corporations. These references would no longer be appropriate to New Amex, as a Delaware Limited Liability Company.

Article XIII ("Amendments to the Constitution"). Article XIII of the New Amex Constitution corresponds to Article XIII of the current Amex Constitution. Article XIII would be substantially revised to reflect the status of New Amex as a subsidiary of the NASD. Section 1 sets forth the basic principle that the New Amex Constitution may be amended by a majority of the Governors and the holder of the Class B Interest, NASD

Market Holding Company, without any further procedures at the SRO level except where the change would require the consent of Amex Corp. or the Amex Committee. Thus, the NASD, via its wholly-owned subsidiary, NASD Market Holding Company, must approve, and has the power to veto, any proposed amendments to the New Amex Constitution. Historically, the corporate owners of the Amex have been required to approve amendments to the Amex Constitution (*i.e.*, by-laws). It is appropriate that, in the new organization, the corporate owner of New Amex have the same ability.

Sections 3 and 4 of Article XIII of the New Amex Constitution set forth the procedures for obtaining the consent of the Amex Corp. in circumstances where a vote of the members is required. The consent of Amex Corp. would be granted if it is authorized by a majority of Regular and Options Principal Members voting together as a single class.

Section 2 ("Adoption by Board") preserves the process in the current Amex Constitution whereby members may petition the Board to adopt amendments to the Constitution. The amendment would be approved upon the vote of a majority of governors then in office and the holder of the Class B Interest.

Article XIV (Reserved). Article XIV of the New Amex Constitution has been reserved. In the current Amex Constitution this Article dealt with implementation of certain amendments previously adopted.

Amex Committee. The Transaction Documents also establish a seven-member Amex Committee ("Committee") which has diverse powers detailed in the Transaction Agreement and provides representation of various Exchange constituencies, including specialists, registered options traders and floor brokers with respect to, among other areas, the operation of the equity and options market and the development of new trading facilities. The representation of the interests of the various business segments on the Exchange floor supplements the Floor representation on the New Amex Board provided under Article II of the New Amex Constitution (discussed above), and is intended to enhance the involvement and representation of diverse member groups in the administration of Exchange affairs in a number of significant areas. The Committee is required to exercise its powers in the best interests of Amex Corp. and the Members, and consists of (1) three Public Members, one of whom will serve as chairman; (2) one person

who is not active on the floor of the Exchange but who is associated with a member organization of the Exchange; and (3) three "floor members" who are active on the floor of the Exchange, one whose principal business is as a specialist on the Equity Market or Options Market, one whose principal business is as a registered options trader and one whose principal business is as a floor broker.

The initial three floor members will be nominated by the Floor Governors on Amex Corp.'s current Board, and agreed to by Amex Corp. and the NASD before the Closing. The other initial Amex Committee members will be designated by the NASD and agreed to by Amex Corp. and the NASD before the Closing. The chairman will be selected by the Amex Committee from among the Amex Committee Public Members, and the initial chairman will be Paul Volcker, former Chairman of the Federal Reserve System and formerly a member of the Amex Board of Governors.

Amex Committee members will be divided into three classes with staggered three-year terms. No Amex Committee member may serve more than two consecutive three-year terms. Vacancies on the Amex Committee will be filled by a person of the same category as the vacating member. Replacements for floor members will be chosen by the Floor Governors on New Amex's Board. Replacement members for other Amex Committee members, including the chairman, will be chosen by a majority of the remaining members of the Amex Committee or, in some circumstances, by action of New Amex's Board (including the approval of at least two Floor Governors of New Amex). All replacements will be subject to the approval of the NASD's Chairman. All Amex Committee decisions will require a majority vote at a meeting at which at least five members are present. For a period of ten years from the Closing Date, New Amex will not make a material change to the equity or options market without the consent of the Amex Committee. From and after ten years from the Closing Date, an affirmative vote of two-thirds of the entire New Amex Board can override disapproval by the Amex Committee of a material change to the Equity Market structure, as described in Exhibit D to the Transaction Agreement, or to the options market.

The Amex Committee also has a role in a number of other significant aspects of the transaction, including the acquisition by the NASD of other options or securities exchanges, the timing of the modernization of the New Amex trading facility, and the

monitoring of amounts spent by the NASD for new technology for New Amex.

Limits on Floor Fee Increases. New Amex must give the floor members on the Amex Committee at least ten business days' prior notice before aggregate costs and fees to floor members and other floor participants on the Exchange can be increased by more than ten percent in any calendar year. A majority of those persons may vote to submit the matter to binding arbitration. Such arbitration will last no more than 30 days and will determine whether the increases were reasonable and fair in light of all relevant factors, including the costs other major securities exchanges charge their members, the costs historically imposed by the Exchange, and changes in the expenses and overall economic performance of the Exchange (other than debt service in connection with the \$110 million Development Program described below).

Limits on Issuance of New Seats and Trading Rights. Regular and Options Principal Trading Rights. Following the Closing, Regular and Options Principal Members (as well as holders of Limited Trading Permits) will have the same privileges as they currently have with respect to the conduct of business on the floor of the Exchange. There is no plan to change the existing process of buying, selling and leasing Regular or Options Principal Memberships or Limited Trading Permits.

If the New Amex Board believes that additional Regular or Options Principal Memberships should be issued, it must request Amex Corp. to do so. Upon receiving such a request, Amex Corp. must put the question to a vote of Members. Amex Corp. must grant such request only if authorized by the affirmative vote of a majority of the Regular Memberships and the Options Principal Memberships voted (as a single class) at a meeting called for the purpose of considering the request of New Amex. This requirement continues indefinitely.

Any new Regular or Options Principal Memberships authorized in this manner must be issued by way of a rights offering to all of the then-current Members. Each Member (or in the case of a leased Membership, the lessor) will receive a right or rights which, in combination with a specified number of other rights, may be surrendered for a newly issued membership. The rights will be transferable by their holders. Subject to membership qualification requirements, Amex Corp. will issue one new Regular or Options Principal Membership without charge (but subject to any initiation or other applicable

fees) to each holder who has assembled the required number of rights. Any new Regular or Options Principal Membership issued in this manner will have the same rights and privileges as the Regular or Options Principal Memberships outstanding immediately before the issue.

Limited Trading Permits; New Trading Rights. Existing Limited Trading Permits will remain in force after the Closing in accordance with the terms of the New Amex Constitution.

Except for the Class C Trading Rights (described above), New Amex may not issue any new rights to trade on the floor of the Exchange or grant materially new rights to holders of existing trading privileges without the consent of Amex Corp. Amex Corp. must give its consent if and only if authorized by the affirmative vote of a majority of the Regular Memberships and Options Principal Memberships voted (as a single class) at a meeting called for considering the request of New Amex.

Seat Market Program. Commitment. The Transaction Agreement provides that a Seat Market Program for Regular and Options Principal Memberships will begin immediately after the Closing. This program is intended to moderate possible downside volatility in seat prices following the Closing. The NASD has committed to fund this program, but no "trust" or other segregated fund will be created. Immediately after the Closing, the NASD will commit \$30 million for this program. On January 1, 1999, the NASD will increase its commitment by \$10 million. The NASD may fund this \$10 million increase itself or, to the extent the 1998 earnings of Amex Corp. and New Amex allow, from the assets of New Amex.

In addition, the NASD will:

- * Increase its commitment by any after-tax net proceeds received from leasing Regular or Options Principal Memberships purchased under the program,
- * Increase or decrease its commitment, as the case may be, by the after-tax profit or loss realized from reselling such memberships,
- * Decrease its commitment by the payments or expenditures pursuant to the program (other than payments or expenditures for purchasing Memberships under the program), and
- * Increase its commitment by imputed interest at an annual interest rate of five percent:

—On the amount of the commitment, for the first five years after the Closing; and

—On the difference between the amount of the commitment and the

aggregate purchase price of all Memberships purchased under the program during the period they are held by the NASD, after the fifth anniversary of the Closing.

The liquidation, dissolution or winding up of New Amex will not affect the NASD's funding commitment under the Seat Market Program.

Seat Committee. The Transaction Agreement provides for a six-member seat committee (the "Seat Committee") which will control the program. The Seat Committee will be composed of three Regular or Options Principal Members (at least one of whom is active on the floor of the Exchange and at least one of whom is not active on the floor of the Exchange), two Public Members and the NASD's Chairman (or his designee). The Regular or Options Principal Members on the Seat Committee will not be from large multi-service broker-dealer firms.

The Floor Governors of New Amex will choose the Regular or Options Principal Members to serve on the Seat Committee, and will fill vacancies in those three positions, in each case subject to the approval of the NASD's Chairman. The other members of the Seat Committee will be chosen, and vacancies filled, by the NASD's Chairman.

Purchases, Sales and Leasing. During the Seat Market Program, the NASD must purchase Regular and Options Principal Memberships, as and if directed by the Seat Committee. Memberships held or leased by the NASD may not be voted. The NASD may sell or lease Memberships purchased under the program, and net proceeds will be returned to the program.

Other Applications of Funds. On or soon after the fifth anniversary of the Closing, the Seat Committee may recommend that the NASD apply up to \$30 million of such funds in one or more of the following ways:

- * Distributions to Members,
- * Reductions in Exchange fees, or
- * Investments in technology for the Exchange (which will not count toward the \$110 million Development Program, described below).

The Seat Committee also may recommend that no fund amounts be spent on any of these choices. Every two years after the fifth anniversary of the Closing, the Seat Committee can recommend that the balance of the commitment be applied to one or more of the above choices.

Each of these Seat Committee recommendations will require the consent of Amex Corp. Upon receiving

a Seat Committee recommendation, Amex Corp. must put the matter to a vote of Members. It must give its consent if, and only if, authorized by the affirmative vote of a majority of the Regular and Options Principal Members voted (as a single class) at a meeting called for the purpose of considering the Seat Committee's recommendation. If it receives Amex Corp.'s consent, the NASD must comply with the Seat Committee's recommendation. If the Seat Committee's recommendation is not approved, the Seat Committee must make a new recommendation.

If the Seat Committee's recommendation is other than that funds be distributed to Members, and two or more Floor Governors of New Amex disagree with that recommendation, they may require Amex Corp. to call for a vote of Members. In this case, the Regular and Options Principal Members, voting as a single class, will decide between (i) approving the Seat Committee's recommendation and (ii) approving a distribution to Members with an allocation between Regular and Options Principal Members as proposed by the three Regular or Options Principal Members on the Seat Committee. If two-thirds of the Regular and Options Principal Members voted (as a single class) at a meeting called for the purpose of considering the matter approve the distribution, the Seat Committee will direct the NASD to make such distribution. In the case of any vote on the distribution of funds to Members, the Regular and Options Principal Members will vote as separate classes on whether to approve the proposed allocation of the distribution between Regular and Options Principal Members. If either class of Members fails to approve the proposed allocation, the Seat Committee will appoint an arbitrator to decide an equitable allocation between the two classes.¹³

¹³In *Selma Philipson v. American Stock Exchange, et al.*, 98 Civ 4219 (DC), United States District Court, Southern District of New York, filed as a class action, plaintiff challenged the transaction between the Amex and the NASD on several grounds. The NASD and the Amex have negotiated an agreement in principle for the settlement of this litigation which provides that the Seat Committee shall consider, 18 months and 36 months after the Closing, whether half of the NASD's initial \$30 million commitment to the Member Equity Program should be distributed to owners of membership interests, used to reduce Exchange fees, or invested in technology for the Exchange, rather than continuing to be held for the purchase of seats. After five years, any remaining portion of the initial \$30 million commitment must be used for one of these three purposes. In addition, the agreement provides that the NASD shall contribute to a separate fund 15% of any amount by which New Amex's annual after-tax income in each of the first

2. Basis

Amex believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(3) in particular in that the proposed provisions of the New Amex Constitution assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The proposed amendments seek to promote fair representation of the various Exchange floor constituencies by providing meaningful, ongoing participation and input by such constituencies in the governance and operation of the Exchange equity and options markets, while, at the same time, providing appropriate input and oversight by the NASD as the parent corporation and the entity with ultimate responsibility for New Amex.

Amex believes the composition of the New Amex Board ensures representation by both "upstairs" member organizations and the Exchange Floor. The New Amex Constitution (proposed Article II, Sec. .01(a)) provides for two "Upstairs Industry Governors" and four Floor Governors, with at least one of the Floor Governors required to be an equity specialist and at least one a registered options trader. Procedures for nominating Floor Governors ensures that the diverse interests of Floor members, as well as the public, are reflected in the nomination process. Proposed Article II, Sec. .01(c) provides that the Amex Nominating Committee consist of three active Floor Members, including a specialist, a registered options trader and a Floor broker, and two public representatives. The nominees of the Nominating Committee, or alternatively,

ten years after the Closing exceeds a specified base amount. A committee consisting of three members of the Exchange and the Chairman of the NASD will determine whether this fund shall be distributed to owners of membership interests, invested in technology for the Exchange, or used to fund pension or retirement benefits for owners of membership interests. The proposed settlement is subject to execution of a formal settlement stipulation, which will then be subject to court approval following notice to all members of the plaintiff class.

It is the view of Amex that, once court approval is received, the terms of the settlement will be able to be implemented without the necessity of further amendment of the Transaction Agreement or any further approval from the Commission. Telephone Call between James Duffy, Executive Vice President and General Counsel, Amex, and Michael Walinskas, Deputy Associate Director, Commission, September 10, 1998.

a nominee or nominees proposed by a petition signed by at least twenty five regular and/or options principal members, are chosen by a vote of regular and OPM members voting together as a single class. The NASD (the holder of the Class B interest) may reject any such proposed nominee only for the specific regulatory reasons enumerated in proposed Article II, Sec. .01(b), namely, if such person is subject to a statutory disqualification or is subject to a proceeding or investigation which could result in a statutory disqualification, or if such person has been disciplined by a securities self-regulatory organization with respect to a matter involving fraud or a serious U.S. securities law violation.

Amex believes the Board composition, together with the use of the Amex Nominating Committee, assure that members are represented fairly in the selection of the Board and thereby in the administration of Exchange affairs. Proposed Article II, Section 1 also provides that the New Amex Board shall include eight Public Governors, all of whom are nominated by the NASD Nominating Committee. In addition, the NASD has undertaken to include as one of the two representatives of the NASD on the New Amex Board a person that meets the qualifications of Public Governor on the New Amex Board. Thus, of the 18 New Amex Board members, nine will meet such Public Governor qualifications. Amex believes such proportion of public governors (who are not themselves and are not affiliated with, a securities broker or dealer) provides substantial and meaningful input by the public in Exchange governance.

The AAC, provided for in proposed Article II, Sec. .06 establishes a mechanism for meaningful participation by Exchange members, as well as the public, in Exchange disciplinary processes, and promotes the equitable conduct of the Exchange's regulatory responsibilities.¹⁴ The AAC, which

¹⁴In its 1997 Concept Release relating to regulation of exchanges, the Commission interpreted the fair representation requirements under Section 6(b)(3) as follows:

* * * fair representation of an exchange's members also serves to ensure that an exchange is administered in a way that is equitable to all market members and participants. Because a registered exchange is not solely a commercial enterprise, but also has significant regulatory powers with respect to its members, competition between exchanges may not be sufficient to ensure that an exchange carries out its regulatory responsibilities in an equitable manner. The fair application of an exchange's authority to bring and adjudicate disciplinary procedures may be particularly important in this respect, because these actions can have significant and far-reaching ramifications for broker-dealers. Accordingly, under the Exchange

includes three Public Governors and three Floor Governors, has authority to act for the Board subject to the Board's discretionary right of review in the areas specified in Article II, Sec. .06(a), including with respect to any appeal or review of a disciplinary proceeding, a statutory disqualification proceeding, or a membership proceeding. Article V, Sec. .01(c) provides for AAC review of Exchange Disciplinary Panel determinations, subject to discretionary right of review by the Board under Article V, Sec. .01(d). The AAC decision becomes final if not reviewed by the Board. Such decision may then be appealed only to the Commission.

As described above, the Amex Committee also has been established to provide for significant input by floor members, the public and member organizations not on the floor with respect to the administration of Exchange affairs, including the New Equity Market Structure.

Amex believes the proposed rule change is consistent with Section 6(b)(8) of the Act which requires that the rules of the Exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The transaction between the Amex and the NASD promotes intermarket competition by providing significant additional financial resources to the Exchange to develop a New Equity Market Structure, including facilities for the automatic execution for electronically delivered orders and a new electronic order book. This initiative will enhance the primary auction market by improving efficiency and lowering costs, which will improve the competitiveness of the New Amex primary auction market and make it a more viable technologically-advanced alternative to other exchange auction markets, including the New York Stock Exchange, for listings and equity order flow. In addition, the NASD/Amex transaction will provide additional resources to permit the Exchange's options market to develop systems and facilities required to compete more effectively with other U.S. and foreign options markets.

Amex believes the proposed rule change is also consistent with Section 6(b)(5) of the Act in that the proposed amendments are designed to prevent fraudulent and manipulative acts and

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule 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 Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR-Amex-98-32 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

EXHIBIT A—AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

(Text in brackets indicates material to be deleted; italicized text indicates material to be added.)

A. Constitution

Article I. Title—Purposes—Definitions

Sec. 01. Title

The title of this [Corporation] *Company* shall be ["American Stock Exchange, Inc."] "*American Stock Exchange LLC*", hereinafter referred to as the "Exchange."

Article I. Title—Purposes—Definitions

Sec. 02. Purposes

The purpose of the Exchange shall be:

Securities [market place] *Market Place*

(a) to provide a securities market place where high standards of honor and integrity shall prevail and to promote and maintain just and equitable principles of trade and business;

[Board of Trade

(b) to conduct and carry on the functions of a "board of trade" within the meaning of that term in the New York Not-for-Profit Corporation Law;

An exchange] *An Exchange*

[(c)] (b) to conduct and carry on the functions of an "exchange" within the meaning of that term in the Securities Exchange Act of 1934; and

[New York Not-for-Profit Corporation] *Delaware Limited Liability Company* Law

[(d)] (c) to conduct and carry on any and all activities incidental to the foregoing which may lawfully be conducted and carried on by a [corporation] *company* of its type formed under the [New York Not-for-Profit Corporation] *Delaware Limited Liability Company* Law.

¹⁵ 17 CFR 200.30-3(a)(12).

Act structure, it may be essential to give exchange participants equitable and enforceable input into disciplinary and other key processes to prevent them from being conducted in an inequitable, discriminatory, or otherwise inappropriate fashion.

Exchange Act Release No. 38672 (May 23, 1997), at 66, 62 FR 30485 (June 4, 1998) ("Concept Release").

Article I. Title—Purposes—Definitions**Sec. 03. Definitions**

The following terms as used in this Constitution and in the rules adopted pursuant thereto shall, unless the context otherwise indicates, be construed as follows:

Rules of the Exchange

(a) The term “rules of the Exchange” shall include the Constitution and all rules and commentaries adopted pursuant thereto.

Member

(b) The term “member”, when not preceded by the word “regular”, “options principal”, “allied”, or “associate”, shall include regular, options principal, allied and associate members.

[Allied member] *Regular Member; Regular Trading Right*

[(c)] (c) The term “regular member” means a person holding a regular trading right issued by The Amex Corporation.

The term “regular trading right” means the right to transact business on the Floor of the Exchange generally.

Options Principal Member; Options Principal Trading Right; Derivative Products

(d) The term “options principal member” means a person holding an options principal trading right issued by The Amex Corporation.

The term “options principal trading right” means the right to execute on the Floor of the Exchange transactions in options and other derivative products for the right holder’s own account, and to give orders in options and other derivative products for his own account to regular members for execution. The holder of an options principal trading right may not execute agency transactions on the Floor either for customers or for regular, associate or allied members or other options principal members, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products), and may not accept any orders from his member organization for execution.

The term “derivative products” includes, in addition to standardized options, other securities which are issued by The Options Clearing Corporation or another limited purpose entity or trust, and which are based solely on the performance of an index or portfolio of other publicly traded securities. Notwithstanding the foregoing, the term “derivative products” shall not include warrants of any type or closed-end management investment companies.

Allied Member

(e) No change. (Repositioned from former Art. I, Sec. .03(c)).

Member Organization

(f) No change.

Approved Person

(g) No change.

Publicly [held security; voting stock; non-voting stock] *Held Security; Voting Stock; Non-Voting Stock*

(h) No change.

Security or [securities] *Securities*

(i) No change.

Member Contracts

(j) No change.

Exchange Contracts

(k) The term “Exchange Contracts” shall include all “Member Contracts”:

(1) made on the Exchange; or

(2) not made on the Exchange, unless made subject to the rules of another [Exchange] exchange or Nasdaq, or unless the parties thereto have expressly agreed that the same shall not be Exchange Contracts.

Date of [death] *Death*

(l) No change.

Entire Board

(m) No change.

He, Him, or His

(n) No change.

Special Transfer

(o) No change.

Lessor

(p) No change.

Lessee

(q) No change.

Nominee

(r) No change.

NASD

(s) The term “NASD” means the National Association of Securities Dealers, Inc.

Nasdaq

(t) The term “Nasdaq” means The Nasdaq Stock Market, Inc.

Transaction Agreement

(u) The term “Transaction Agreement” means the agreement dated as of May 8, 1998, between the American Stock Exchange, Inc. and certain other parties, including the NASD, pursuant to which substantially all of the assets of the American Stock Exchange, Inc. were transferred to the Exchange, as it may be amended from time to time.

Predecessor Corporation

(v) The term “Predecessor Corporation” means the American Stock Exchange, Inc. prior to the date of the Transaction Agreement, and The Amex Corporation after that date.

Amex Committee

(w) The term “Amex Committee” means the committee by that name established pursuant to the Transaction Agreement.

Class A Interest

(x) The term “Class A Interest” refers to the limited liability company interest in the

Exchange initially issued to the Predecessor Corporation.

Class B Interest

(y) The term “Class B Interest” refers to the limited liability company interest in the Exchange initially issued to NASD Market Holding Company, a wholly-owned subsidiary of the NASD.

Amex Corporation

(z) The term “The Amex Corporation” means the New York Not-for-Profit Corporation that holds the Class A Interest in the Exchange.

NASD Nominating Committee

(aa) The term “NASD Nominating Committee” means the National Nominating Committee appointed pursuant to Article VII Section 9 of the NASD By-Laws.

Article II. Government and Administration
Sec. 01. The Board of Governors—
Classification

Classification

(a) The Board of Governors shall be composed of:

(1) [Twelve] Six regular, options principal, associate or allied members of the Exchange [having the following qualifications: (i) each] (i) two of whom shall be [a principal executive officer of a] affiliated with regular[, options principal] or associate member [corporation, or a principal partner of a regular, options principal or associate member firm, or a regular or options principal member of the Exchange who is not associated with any member organization; (ii) at least four of the twelve governors shall be principal executive officers of regular or associate member corporations or general partners of regular or associate member firms, which firms or corporations] organizations that engage in a business [involving] having substantial direct contact with public securities customers [; (iii) at least two of the four governors provided for in clause (ii) shall reside and have their principal place of business more than 100 miles from the City of New York; (iv) at least five, but not more than five, of the twelve governors shall] (“Upstairs Industry Governors”), and (ii) four of whom shall be persons who spend a substantial part of their time on the Floor of the Exchange [; and (v) at least two of the five governors provided for in clause (iv)] (“Floor Governors”). At least one of the Floor Governors shall be principally engaged in business as a registered [as specialists;] equity specialist, and at least one shall be principally engaged in business as a registered options trader;

(2) [Twelve] Eight representatives of the public (i) none of whom is, or is affiliated with, a broker or dealer in securities and (ii) [not less than three] all of whom are [principal executive officers of corporations whose securities are admitted to dealings on the Exchange] nominated by the NASD

Nominating Committee ("Public Governors"); and

(3) The [Chief Executive Officer] *two most senior officers* of the Exchange, [who shall be the Chairman of the Board, and the Executive Vice-Chairman, if there be one, or if there is no Executive Vice-Chairman, the President, if there be one.] *and*

[(b) The twelve regular, options principal, associate or allied member governors and the twelve public governors]

(4) *Two representatives of the staff of the NASD.*

(b) *All elected governors other than the four Floor Governors shall be nominated[,] and elected by [vote of the regular members of the Exchange, in accordance with the provisions of Article III. The Chief Executive Officer of the Exchange] the holder of the Class B Interest. The four Floor Governors shall be nominated by the holder of the Class A Interest and elected by the [Board by the affirmative vote of the majority of the entire Board] holder of the Class B Interest. A nominee for Floor Governor may be rejected by the holder of the Class B Interest only if such person (i) is subject to a statutory disqualification within the meaning of Section 3(a)(39) of the Securities Exchange Act of 1934, (ii) is subject to a proceeding or investigation which could result in such a statutory disqualification, or (iii) has been disciplined by a securities self-regulatory organization with respect to a matter involving fraud or a serious violation of the U.S. securities laws. The holder of the Class A Interest shall have the right to submit a substitute nominee in the event of any such rejection. All governors shall be of equal standing and shall be entitled to one vote each at all meetings of the Board.*

(c) The [governors elected by the] *nomination of the Floor Governors by the holder of the Class A Interest shall be accomplished in the following manner. The nominees shall be chosen by vote of the regular and options principal members voting together as a single class on candidates selected and proposed either by the Amex Nominating Committee or by petition signed by at least twenty-five regular and/or options principal members. The Amex Nominating Committee shall consist of five persons, three of whom shall be members active on the Floor of the Exchange ("Floor Members"), and two of whom shall be representatives of the public having no affiliation with a broker or dealer in securities ("Public Members"). Of the three Floor Members, one shall be principally engaged in business as a registered equity specialist, one shall be principally engaged in business as a registered options trader, and one shall be principally engaged in business as a Floor broker on the Floor of the Exchange.*

(d) *The two governors who are representatives of the staff of the NASD shall be appointed by the NASD and shall serve on the Board until their successors are appointed. The two most senior officers of the Exchange shall serve on the Board for as long as they hold such offices.*

(e) *The Floor Governors shall be divided into [three classes, each class consisting of eight governors;] two classes. The first class shall include at least one governor who is an equity specialist. The second class shall include at least one governor who is a registered options trader.*

[(1)](f) *The members of the Amex Nominating Committee shall be divided into two classes. The first class shall consist of one Public Member and the Floor Member who is a registered specialist, and the [(i) four regular, options principal, associate or allied members of the Exchange who meet the qualifications described in subsection (a)(1)(i) of this Section, at least two of whom meet the qualifications described in subsection (a)(1)(ii), at least one of which two meets the additional qualifications described in subsection (a)(1)(iii), and one, but not more than one, of whom meets the qualifications described in subsection (a)(1)(iv), and (ii) four representatives of the public who meet the qualifications described in subsection (a)(2)(i) of this Section, at least one of whom meets the additional qualifications described in subsection (a)(2)(ii);*

[(2) The] *second class shall consist of [(i) four regular,] one Public Member, the Floor Member who is a registered options [principal, associate or allied members of the Exchange who meet the qualifications described in subsection (a)(1)(i) of this Section, at least one of whom meets the qualifications described in subsection (a)(1)(ii), and two, but not more than two, of whom meet the qualifications described in subsection (a)(1)(iv), and (ii) four representatives of the public who meet the qualifications described in subsection (a)(2)(i) of this Section, at least one of whom meets the additional qualifications described in subsection (a)(2)(ii); and] trader, and the Floor Member who is a Floor broker.*

[(3) The third class](g) *The Upstairs Industry Governors and the Public Governors shall be divided into two classes, each of which shall consist of [(i) four regular, options principal, associate or allied members of the Exchange who meet the qualifications described in subsection (a)(1)(i) of this Section, at least one of whom meets the qualifications described in subsections (a)(1)(ii) and (iii) and two, but not more than two, of whom meet the qualifications described in subsection (a)(1)(iv), and (ii) four representatives of the public who meet the qualifications described in subsection (a)(2)(i) of this Section, at least one of whom meets the additional qualifications described in subsection (a)(2)(ii).] one Upstairs Industry Governor and four Public Governors.*

[(d)](h) *The initial terms of the [governors of the first, second and third] Floor Governors, members of the Amex Nominating Committee, Upstairs Industry Governors, and Public Governors in the first and second classes shall terminate in [1982, 1983] 1999 and [1984,] 2000 respectively, upon the election of their successors [in accordance with the provisions of Article III. Subsequent*

to the initial terms of office, the governors of]. Thereafter, the persons in each class shall be elected for [three] two-year terms and shall hold office until their successors [have been elected in accordance with the provisions of Article III.] are elected.

[(e) No person](i) *No Floor, Upstairs Industry or Public Governor who has served [all or part of two] three consecutive elected terms as a governor shall be eligible for election [by the regular members] as a governor, except after an interval of two years[,] provided, however, that [(i) the Nominating Committee may in its discretion nominate for election to a third] Governors in the first class whose term in office expires in 1999, and any other governor appointed to the Board for one year or less by reason of a vacancy, may subsequently be elected to serve three consecutive [term an incumbent governor who is serving the final year of his or her second elected term if the] two-year terms.*

(j) *No person shall serve for all or part of two consecutive terms as a member of the Amex Nominating Committee [determines that such governor has made an extraordinary contribution to the Exchange and that the interest of the Exchange will best be served by permitting such person to stand for reelection; and (ii) an incumbent governor]. No member of the Amex Nominating Committee, and no person having a business affiliation with a member of the Amex Nominating Committee, shall be eligible [for election to a third consecutive term if nominated by independent nomination as provided in Section 7(f) of Article III. Notwithstanding the foregoing provisions, at no time may more than four governors be serving a third consecutive term, and of those four governors, no more than three may be representatives of the public who meet the qualifications described in subsection (a)(2), no more than one may be] as a candidate for office on the ticket named by it. Any vacancy in the Amex Nominating Committee shall be filled by the remaining members thereof, who shall elect a person qualified to fill the vacancy.*

(k) *Each governor that is not a regular[,] or options principal[, associate or allied member who meets the qualifications described in subsection (a)(1)(iv), and no more than one may be a regular, options principal, associate or allied member who meets the qualifications described in subsection (a)(1)(ii).*

[(f) Each non-regular member governor] *member of the Exchange shall be deemed to have agreed to uphold the Constitution by acceptance of the office of governor. [Non-] Each governor that is not a regular [member governors and public governors] or options principal member of the Exchange shall have the right to go on the Floor of the Exchange but shall not have the right to transact business in securities thereon, and shall have no rights or obligations with respect to*

contributions to, or benefits from, the Gratuity Fund.

Article II. Government and Administration

Sec. 02. Vacancies

(a) *A vacancy shall occur in the office of any governor if the Board of Governors shall determine, by the affirmative vote of a majority of the entire Board, that such office holder no longer satisfies the requirements pursuant to which he was elected or is no longer eligible within the classification to which he was elected to the Board.*

Absence of Governor

(b) *If a governor shall have been absent from three consecutive regular meetings of the Board of Governors, without having been excused by the Chairman, the Board may, by the affirmative vote of a majority of the entire Board, remove such governor and declare the office theretofore held by him to be vacant.*

Expulsion, Suspension or Insolvency

(c) *The expulsion, suspension or insolvency of a person holding office or of his member organization shall create a vacancy in the office held by such person.*

Removal

(d) *In the event of the refusal, failure, neglect or inability of an officer approved or elected by the Board, or any governor, to discharge the duties of his office, or for any cause, of the sufficiency of which the Board of Governors shall be the sole judge, the Board shall have the power, by the affirmative vote of a majority of the entire Board, to remove such officer or governor and declare the position held by him to be vacant.*

Vacancies in Board

(e) *All vacancies occurring in the offices of governors shall be filled by the Board by the appointment of persons recommended by the holder of the Class B Interest in the Exchange with respect to all governors other than Floor Governors, and by the holder of the Class A Interest in the Exchange with respect to Floor Governors, to serve until the next annual election.*

Vacancies Among Officers Elected by the Board

(f) *In case any vacancy shall occur in any office to which the holder is elected by the Board, such vacancy shall be filled by election by the Board of a person eligible to serve in such office.*

Article II. Government and Administration

Sec. [02] 03. Powers, Duties and Procedures

Powers and [duties] Duties

The Board of Governors shall be vested with all powers necessary for the government of the Exchange, the regulation of the business conduct of members and member organizations of the Exchange and of approved persons in connection with their conduct of the business of member organizations, *provided, however, that the Board of Governors shall not take any action that requires the consent of The Amex Corporation, the Amex Committee, or both under the terms of the Transaction*

Agreement without first obtaining such consent.

Rules

In the exercise of its powers, the Board may adopt, modify or rescind such rules, require such appearances and the filing of such reports, issue such orders and directions, and make such decisions as it may deem appropriate, which rules, requirements, orders, directions and decisions shall be binding upon members, member organizations and approved persons concerned.

Procedure

The Board shall determine the manner and form by which its proceedings shall be conducted; shall make such appointments and perform such other duties as are required herein; shall remove any officer or dissolve any committee, [except the Nominating Committee,] when in its opinion the public interest or the welfare of the Exchange so requires; and shall have original and supervisory jurisdiction over any and all subjects and matters referred to committees or officers, and may direct and control their actions or proceedings at any stage thereof.

Finances

The Board shall have control of the property and finances of the Exchange. No purchase of real property shall be made by the Exchange, nor shall it sell, mortgage or lease real property, unless authorized by the affirmative vote of a majority of the entire Board. By the affirmative vote of a majority of the entire Board, it shall fix the amount of fees and compensation, if any, to be paid to governors, to members of committees, to Arbitrators, to Trustees of the Gratuity Fund and to members and other persons called to give information before the Board or any committee.

Delegation of [powers] Powers

The Board of Governors by the affirmative vote of a majority of the entire Board, may delegate such of its powers as it may from time to time determine, subject to the provisions of the Constitution and applicable law, to such committee or committees [composed of Governors,] as the Board may from time to time authorize. The Board may assign such authority and duties to the Chairman and to other officers and employees of the Exchange in addition to those specified in the Constitution, as the Board may from time to time determine, subject to applicable law.

The Board of Governors may also appoint such other committees, composed either of governors or other persons, with such powers other than those vested in the Board under the Constitution or applicable law, and for such terms as it may from time to time determine. Subject to the approval of the Board, and after seeking the advice of all segments of the membership, the Chairman shall from time to time appoint a number of regular, options principal, associate and allied members of the Exchange, and individuals who are employed by or associated with a member organization in a senior capacity, who shall be designated as Exchange Officials, to serve on such committees. In selecting such Exchange

Officials, the Chairman shall give due consideration to the various phases of Exchange activities and member organization operations.

Appeal

An appeal to the Board from a decision of any committee [other than the Executive Committee,] or from a decision of any officer or employee acting under authority granted by the Board may be taken by a member, member organization or approved person affected by such decision, by filing with the Secretary of the Exchange a written demand therefor within five business days after the decision has been rendered. A member of any such committee taking part in the hearing of a matter may, within two days after a decision has been made thereon, appeal therefrom to the Board by filing a written demand therefor with the Secretary of the Exchange. Any member or ex-officio member or additional member of any such committee from whose decision an appeal to the Board is taken pursuant hereto may participate in the hearing of such appeal, but shall not participate in the deliberation or determination of the Board thereon. The decision of the Board with respect to any such appeal shall be final and conclusive, except that the Board under its general power of delegation may authorize [the Executive Committee] a committee to consider any specific appeal or any class or type of appeals and in such case the decision of the [Executive Committee] committee with respect thereto shall be final and conclusive. [Delegation in emergency]

Whenever it shall appear to the Board that an emergency exists, other than as provided for in Article XII, it may by resolution adopted by the affirmative vote of a majority of the entire Board delegate all of its powers which may lawfully be delegated, for such period as it may determine, to a Special Committee, to be composed of three or more governors, at least half of whom shall be regular, options principal, associate or allied members of the Exchange. The Board by such resolution may designate one or more governors who are regular, options principal, associate or allied members of the Exchange as alternates for the members of such committee who are regular, options principal, associate or allied members of the Exchange and one or more other governors as alternates for the members of such committee who are not regular, options principal, associate or allied members of the Exchange. Governors so designated may replace any absent member or members for whom they are alternates at any meeting of such committee.]

Meetings

No change.

Written Consent to Action Without Meeting

No change.

Quorum

No change.

Contracts of Employment

No change.

Selection of Chairman

The Board shall, by the affirmative vote of a majority of the entire Board, elect the Chief Executive Officer of the Exchange, who shall be the Chairman of the Board, to serve for such period of time as the Board may determine, and the Board shall, by like vote, fix his compensation.

At its annual meeting the Board shall elect from among its members who are regular[,] or options principal[, associate or allied] members of the Exchange[, one or more] a Vice-[Chairmen] *Chairman* of the Board to serve until the next annual meeting of the Board and until his successor has been elected and takes office.

[Selection of general counsel]

Subject to the approval of the Board by the affirmative vote of a majority of the governors then in office, the Chairman shall appoint independent general counsel for the Exchange, who shall consult with and advise the Board and the officers of the Exchange with respect to legal matters pertaining to the Exchange, and the Chairman, subject to like approval of the Board, may terminate such appointment. The Board shall fix the compensation of such counsel.

Trial of members, member organizations and approved persons] Trial of Members, Member Organizations and Approved Persons

No change.

Transactions in Exchange [securities] Securities

No change.

Penalties

No change.

Contracts

No change.

Admission of [securities] Securities

The Board shall establish standards and requirements with respect to the listing or admission to unlisted trading on the Exchange of securities, contracts in securities "when, as and if issued" or "when distributed" and rights, warrants and similar privileges appertaining to securities, and with respect to the continued listing or admission to unlisted trading thereof or the suspension of trading therein or removal of the same from listing or unlisted trading. The Board may grant to the Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve any such securities, contracts in securities, rights, warrants or privileges, for original listing or admission to unlisted trading upon the Exchange and to admit the same to dealings on an "issued", "when issued" or "when distributed" basis; to list or admit to dealings on an "issued", "when issued" or "when distributed" basis securities of an issuer having securities already listed or admitted to unlisted trading on the Exchange, including certificates of deposit, rights to subscribe, and other securities issued in exchange for or growing out of such securities; to suspend dealings in such securities at any time, and without notice, when such action is deemed appropriate and to remove the same from listing or from unlisted trading; to make such certifications

or file such notices with respect to the listing and registration of any such securities or the suspension of dealings or removal thereof from listing or unlisted trading as may be required by the Securities Exchange Act of 1934 and rules and regulations issued thereunder; and to take such other action as may be necessary or appropriate in connection with the listing, suspension of trading or removal from listing or unlisted trading of any such securities. Any company directly affected by a decision of the Chairman or such duly authorized officer of the Exchange with respect to the listing of its securities or the removal thereof from listing or unlisted trading, may appeal such decision to the Board. A committee designated by the Board shall conduct a hearing with respect to any such appeal and shall make recommendations to the Board with respect thereto. The decision of the Board with respect to any such appeal shall be final and conclusive, except that the Board under its general power of delegation may authorize [the Executive Committee] a *committee* to consider any or all such appeals and in such case the decision of the [Executive Committee] *committee* with respect thereto shall be final and conclusive.

Corners

No change.

Invitation to [non-governors] *Non-Governors*

No change.

Members, [member organizations and approved persons] *Member Organizations and Approved Persons*

The Board shall have general supervision over members and member organizations, and shall have general supervision over approved persons in connection with their conduct of the business of member organizations. The Board may examine into and regulate the conduct and financial condition of members, member organizations and approved persons. It shall have supervision over and may adopt such rules as it may deem necessary or proper with respect to the formation of member organizations, the continuance thereof, the finances and capital requirements thereof, the types, terms, conditions and issuance of securities by member organizations and trading in such securities, the interest of members and other persons in member organizations, the partners, officers, directors, trustees, stockholders and employees of members and member organizations, the offices of members and member organizations, the business connections of members and member organizations, and their association with or domination by or over any organizations or persons engaged in the securities business. The Board, to the extent not inconsistent with the Securities Exchange Act of 1934, as amended, shall have supervision over all matters relating to the collection, dissemination and use of quotations and of reports of prices on the Exchange and may grant to the Chairman, or to such officer or officers of the Exchange as he may designate, the authority to approve or disapprove any application for ticker or quotation service to any non-member. The Board may grant to the

Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve or disapprove of any connection or means of communication with the Floor and to require at any time the discontinuance of any such connection or means of communication if such connection or means of communication has been or is being used to facilitate any violation of the Securities Exchange Act of 1934, as amended, or rules thereunder, the Exchange Constitution or its Rules, or just and equitable principles of trade. The Board shall establish standards and requirements for the registration of [regular members as] specialists or odd-lot dealers in securities dealt in on the Exchange, and may grant to a committee or committees, the authority to (i) approve the registration of [regular members as] specialists or odd-lot dealers, (ii) revoke or suspend any such registration at any time, (iii) allocate to a registered specialist or odd-lot dealer any security dealt in on the Exchange, and (iv) revoke any such allocation, temporarily or permanently, at any time.

The Board may by rule provide for facilities and establish the conditions under which members may transmit orders electronically from the Floor of the Exchange to other markets and receive orders transmitted electronically to the Floor of the Exchange from other markets for the purchase or sale of securities traded on the Exchange.

Personal [interest] *Interest*

No change.

Interpretation

No change.

Subsidiaries

No change.

Group [hospitalization plan] *Hospitalization Plan*

No change.

*Article II. Government and Administration**Sec. [03] 04. Officers of the Exchange*

Chairman

(a) The Chairman of the Board shall be the Chief Executive Officer of the Exchange and shall have the care of all the interests of the Exchange. He shall be responsible to the Board for the management and administration of the affairs of the Exchange. He shall be the official representative of the Exchange and its spokesman in all public matters. He shall, during his incumbency, be a member and the presiding officer of the Board of Governors. [and ex-officio a member of the Executive Committee and a member of all committees authorized by the Board of Governors.] He shall preside at meetings of the members of the Exchange, or may designate the Vice-Chairman to preside at any such meetings.

The Chairman shall have no affiliation with any member organization nor any other business interest during his incumbency. By his acceptance of the office of Chairman he shall be deemed to have agreed to uphold the Constitution of the Exchange.

The Chairman may call special meetings of the [regular members of the Exchange and of

the] Board of Governors. He shall call special meetings of the [regular members of the Exchange upon the direction of the Board or upon the written request of 50 regular members, and special meetings of the] Board upon the written request of [four] *three* governors.

The Chairman shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine, the books, papers and records of any member, his employees, his member organization, or any partner, director, employee or approved person of his member organization, and the Chairman shall have power to order the production of such books, papers and records for examination either by him or by any officers, employees or representatives of the Exchange designated by him. The Chairman shall also have power to require any member to appear and testify before him or before any officers, employees or representatives of the Exchange designated by him, or to require any member to cause any of his employees, or any of the partners, directors, employees or approved persons of his member organization, to appear and testify before the Chairman or before any officers, employees or representatives of the Exchange designated by him, as to any matter or transaction pertaining to the business of such member, his employees, his member organization or of any partner, director, employee or approved person of his member organization, or to require any approved person to cause any of his or its employees to appear and testify before the Chairman or before any officers, employees or representatives of the Exchange designated by him as to any matter or transaction pertaining to the business of such approved person or of any employee or such approved person.

Following each annual election the Chairman shall make such appointments, in the manner provided for herein, as may be required by the Constitution and shall fill any vacancy which occurs in any office to which he has made an appointment. Pending approval by the Board such appointments may be made ad interim.

Subject to the approval of the Board by the affirmative vote of a majority of the entire Board, the Chairman shall appoint and may remove the members of [the Executive Committee and any other committees] *any committee* of the Board. Subject to the approval of the Board by the affirmative vote of a majority of the governors present at any meeting of the Board, the Chairman shall appoint and may remove the members of other committees which may from time to time be authorized by the Board to consider matters pertaining to the administration of the Exchange and to the rules and policies of the Exchange concerning members, member organizations and approved persons. The Chairman shall fill all vacancies in [the Executive Committee and in said other] *said* committees and may make any such appointment ad interim until the next regular meeting of the Board.

Subject to the approval of the Board, the Chairman may appoint special committees to advise or consult with him or other officers of the Exchange, or to consider matters

pertaining to the administration of the Exchange, and such committees appointed by the Chairman shall have such powers as may be delegated to them by the Board.

Subject to approval by the affirmative vote of a majority of the entire Board, the Chairman may appoint [an Executive Vice-Chairman,] a President, one or more Vice-Presidents and such other officers of the Exchange (except the Vice-Chairman [or Vice-Chairmen] of the Board who [are] *is* appointed from the [Exchange members] *Floor Governors* on the Board), as he may from time to time determine are required for the efficient management and operation of the Exchange, and subject to like approval of the Board he shall appoint the Treasurer and the Secretary and shall fix the duties, responsibilities, terms and conditions of employment of such officers and, subject to the approval of the Board, he may terminate their employment at any time.

The Chairman shall have power to appoint, dismiss and fix the salaries and wages of all other employees of the Exchange, including such expert or professional advisers as he may deem advisable. He shall determine the number and duties of all employees. He may require that officers, appointees or employees of the Exchange give good and sufficient bonds for the faithful performance of their duties.

All salaried officers and employees of the Exchange shall be under the direction of and responsible to the Chairman.

The Chairman, or such other officer as he may designate, shall prepare and present to the Board periodic reports concerning the finances, income and expenses of the Exchange, and prior to the beginning of each fiscal year of the Exchange shall present to the Board an estimate of the income of the Exchange and recommendations as to appropriations for expenses for such fiscal year. The Chairman may at any time recommend additional appropriations or the increase or decrease of any appropriations made by the Board and shall make reports and recommendations to the Board as to the financial policy of the Exchange.

In the case of the absence or inability to act of the Chairman, such other person as the Board of Governors may designate shall assume all the functions and discharge all the duties of the Chairman, other than those which shall devolve upon the Vice-Chairman [or Vice-Chairmen] as provided in subsection 3(b) of this Article II. In the absence of such designation by the Board, [the Executive Vice-Chairman, if there be one, or if there is no Executive Vice-Chairman, or in his absence or inability to act,] the President, if there be one, or if there is no President, or in his absence or inability to act, the senior ranking Vice-President available shall assume all such functions and discharge all such duties of the Chairman. In case a vacancy shall occur in the office of Chairman, the Board, by the affirmative vote of a majority of the governors then in office, shall fill such vacancy.

The Chairman may vote the shares of stock or other securities of any corporation, association or other entity which may at any time be owned by the Exchange, may execute any shareholders' or other consents in

respect thereof and may in his discretion delegate such powers by executing Proxies or otherwise, on behalf of the Exchange. The Board of Governors from time to time may confer like powers upon any other person or persons.

Vice-Chairman

(b) [Each] *The* Vice-Chairman of the Board of Governors [(other than the Executive Vice-Chairman)] shall be a regular[,] or options principal[, associate or allied] member of the Exchange. [If there shall be two Vice-Chairmen, then one shall be a governor who meets the qualifications described in subsection (a)(1)(ii) of Section 1 of this Article II, and the other shall be a governor who meets the qualifications described in subsection (a)(1)(iv).] In the case of the absence or inability to act of the Chairman, or in case of a vacancy in the office of Chairman, the Vice-Chairman of the Board shall exercise the powers and discharge the duties of the Chairman in calling and presiding at meetings of the Board of Governors. [and of members of the Exchange. If there shall be two] *The* Vice-Chairman[, then unless the Board shall otherwise designate, the foregoing duty shall devolve first upon the one meeting the qualifications described in subsection (a)(1)(ii) of Section 1 of this Article, and in the case of his absence or inability to act, then upon the other. The Vice-Chairman or Vice-Chairmen] shall have such other functions and responsibilities as the Board of Governors may from time to time assign to him.

In the absence or inability to act of both the Chairman and the Vice-Chairman[(or each of the Vice-Chairmen)], the members of the Board of Governors who are regular, options principal, associate or allied members of the Exchange, and in such order of priority as the Board may designate, or, in the absence of such designation, the senior available member in service on the Board of Governors who is a regular, options principal, associate or allied member of the Exchange, shall exercise the powers and discharge the duties of the Chairman in calling and presiding at meetings of the Board of Governors. [and of members of the Exchange.]

In case a vacancy shall occur in the office of Vice-Chairman, the Board shall fill such vacancy by the election to such office of a governor who is a [regular, options principal, associate or allied member of the Exchange and, if there is more than one Vice-Chairman, who meets the further qualification specified above which is applicable to the vacant position] *Floor Governor*.

Treasurer

No change.

Secretary

No change.

Article II. Government and Administration Sec. [04] 05. Committees

[Executive Committee] Examination, Investigation, etc.

[(a) Subject to the approval of the Board, by the affirmative vote of a majority of the entire Board, the Chairman shall appoint an Executive Committee to be composed of seven governors as follows: (i) the Chairman

of the Board, (ii) four regular, options principal, associate or allied member governors of whom two shall be principally engaged in office functions and two shall be members who spend a substantial part of their time on the Floor of the Exchange; provided, however, that among the four shall be included any member governor who is a Vice-Chairman of the Board, and (iii) two public governors. The members of this Committee other than the Chairman and the Vice-Chairman or Vice-Chairmen, shall serve at the pleasure of the Board. The Chairman of the Board shall serve as chairman of the Executive Committee.

The Executive Committee shall consult with and assist the Chairman and the other officers and employees of the Exchange in the administration and interpretation of the provisions of the Constitution, the rules of the Exchange and the policies promulgated by the Board. Subject to the provisions of the Constitution and applicable law, between meetings of the Board of Governors the Executive Committee shall have the authority to exercise all of the powers of the Board except to the extent that the Board may from time to time by resolution specifically reserve any such power or powers, but the Executive Committee shall have no power to change rules or policies adopted by the Board or to make new rules or policies.

The Chairman may designate an officer or employee of the Exchange to act as secretary to the Executive Committee, and the person so designated shall keep records of the proceedings of the Committee and perform such other functions or duties as the Committee may from time to time determine.

The Executive Committee, or any sub-committee thereof, shall have such other duties and may be delegated such other powers as the Board may from time to time determine.

Examination, investigation, etc.

(b)(a) Any committee authorized by the Board or by the Constitution shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine the books, papers and records of any member, his employees, his member organization, or any partner, director, employee or approved person of his member organization, and any such committee shall have power to order the production of such books, papers and records for examination either by such committee or by any officers, employees or representatives of the Exchange designated by such committee. Any such committee shall also have power to require any member to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such member, his employees, his member organization or of any partner, director, employee or approved person of his member organization, or to require any

approved person to cause any of his or its employees to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such approved person or of any employee of such approved person.

Additional [committee members] *Committee Members*

(c)(b) The chairman of any committee authorized by the Board, other than a committee to which the Board has delegated powers vested in it pursuant to the Constitution or applicable law, shall, with the approval of the Chairman, be empowered to appoint any member associated with any member organization to serve on said committee for such time as the chairman of such committee, with the approval of the Chairman, may decide. Such appointees shall serve as additional members of the committee to which they may be appointed and shall be entitled to vote.

[Indemnification shall be accorded by the Exchange, and related expenses may be advanced, in respect of members of any committee authorized by the Constitution or by the Board of Governors, Floor Officials, Arbitrators, Trustees of the Gratuity Fund, Trustees of any Special Trust Fund, employees of the Exchange and directors, officers and employees of any corporation a majority of the stock of which is held by the Exchange to the same extent as provided by law in respect of governors and officers. The foregoing right of indemnification shall not affect any rights to indemnification to which persons other than governors and officers of the Exchange may be entitled by contract or otherwise under law.]

Committee [rules] *Rules*

(d) The Executive Committee and any(c) Any committee authorized by the Board shall have power, subject to the provisions of the Constitution and applicable law, to make and require the observance of rules, regulations, requirements, rulings and orders pertaining to matters within its jurisdiction. In the absence of a designation by the Board, any committee authorized by the Board shall have power to appoint a member of such committee as its chairman.

Committee [procedure] *Procedure*

(e)(d) Except as herein otherwise prescribed, [the Executive Committee and] each committee authorized by the Board shall determine the manner and form in which its proceedings shall be conducted and shall make such regulations for its government as it shall deem proper and may act at a meeting, or without a meeting, and by a majority of its members or by such other vote of its members as such committee by a majority of its existing members may by rule determine, subject always to the control and supervision of the Board of Governors. No member of a committee shall participate in the deliberations of such committee, or in the determination by such committee, with respect to a matter in which he is personally interested. Any one or more members of any committee may participate in a meeting of such committee by means of a conference

telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

Current Section 5 (Indemnification) is deleted in its entirety

Article II. Government and Administration [Sec. 05. Indemnification] Section 06. Amex Adjudicatory Council

Appointment and Authority

(a) There shall be established an Amex Adjudicatory Council (the "Council") which, subject to the Board's discretionary right of review, shall have authority to act for the Board with respect to any appeal or review of a disciplinary proceeding, a statutory disqualification proceeding, or a membership proceeding; any review of a written stipulation of facts and consent to penalty; the exercise of any exemptive authority; and such other proceedings or actions authorized by the rules of the Exchange.

Number of Members and Qualifications

(b) The Council shall consist of six individuals, all of whom shall be nominated by the Amex Nominating Committee and elected by the regular and options principal members voting together as a single class. Three of the six Council members shall be Floor Governors ("Floor Council Members"). The other three Council members shall be Public Governors ("Public Council Members").

As soon as practicable following the initial election of members, the Council shall elect a Chair and a Vice-Chair from among its members. The Chair and Vice-Chair shall have such powers and duties as may be determined from time to time by the Council.

Term of Office

(c) Except as otherwise provided in this subsection, each Council member shall hold office for a term of two years or until a successor is elected, except in the event of earlier termination from office by reason of death, resignation, removal, disqualification, or other reason.

The Council members shall be divided into two classes. The first class shall consist of two Floor Council Members and one Public Council Member. The second class shall consist of one Floor Council Member and two Public Council Members. The initial terms of the Council members in the first and second classes shall terminate in 1999 and 2000, respectively, upon the election of their successors. Subsequent to the initial terms of office, each class shall be elected for two-year terms and shall hold office until their successors have been elected.

Beginning in 2000, no Council member may serve more than two consecutive terms, except that if a Council member is appointed to fill a term of less than one year, such member may serve up to two consecutive terms following the expiration of such member's initial term.

Resignation

(d) A member of the Council may resign at any time upon written notice to the Board. Any such resignation shall take effect at the

time specified therein, or if the time is not specified, upon receipt thereof, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

Removal

(e) Any or all of the members of the Council may be removed from office at any time for refusal, failure, neglect, or inability to discharge the duties of such office by a majority vote of the Board.

Disqualification

(f) Notwithstanding subsection (c), the term of office of a Council member shall terminate immediately upon a determination by the Board, by a majority vote of the entire Board, that the Council member no longer fits the classification (Floor or Public Council Member) for which the member was elected.

Filling of Vacancies

(g) If a position on the Council becomes vacant, whether because of death, disability, disqualification, removal or resignation, the board of directors of The Amex Corporation shall appoint a person within the same classification (Floor or Public Council Member) to fill the vacancy until the next annual election of Council members.

In the event that a member of the Council is precluded from participating in the Council's consideration of a particular matter due to a conflict of interest, the board of directors of The Amex Corporation shall appoint a person within the same classification for the position as provided in subsection (b) of this Section to serve as a substitute for such Council member with respect to the particular matter. In the event that a person fitting the relevant classification is not available to serve as a substitute, the Board of Directors may appoint a person who would be qualified to serve as a governor within such classification.

Quorum and Voting

(h) At all meetings of the Council, a quorum for the transaction of business shall consist of a majority of the Council, including at least two Public Council Members. In the absence of a quorum, a majority of the members present may adjourn the meeting until a quorum is present. In the event of a tie vote, the decision that was the subject of the Council's review shall stand.

Meetings

(i) The members of the Council may participate in a meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may hear one another, and such participation in a meeting shall constitute presence in person at that meeting for all purposes.

Article III. Reserved [Elections Nominations]

Current Article III is deleted in its entirety.

Article IV. Membership

Sec. 01. Admission to Membership

Number of [regular memberships] *Regular Memberships*

(a) (1) Regular membership—[The regular memberships shall consist of 675] *There shall be 661 regular memberships* [Any change] in the Exchange. The number of regular memberships shall be [made by an amendment of the Constitution] *increased only if the Board of Governors requests The Amex Corporation to issue additional regular memberships. Any such issuance of additional regular memberships shall require the approval of a majority of the regular and options principal members voting together as a single class at a meeting called for the purpose of considering the request that new regular memberships be issued.*

Requirements

(2) Every applicant for regular membership must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. An application for regular membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to regular membership unless his application is approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV. *Nothing in the Constitution shall be construed to prohibit NASD Market Holding Company from holding a regular membership.*

Signing Constitution

(3) No person whose application for regular membership has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he pledges himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. *In addition, any regular member or lessee of a regular membership, by exercising any of the rights inherent in a regular trading right, shall be deemed to have pledged himself, as though he had signed the Constitution, to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith.*

[Number of options principal memberships] *Number of Options Principal Memberships*

(b)(1) Options principal membership—There shall be 203 options principal memberships in the Exchange. [Any change in the] *The number of options principal memberships shall be [made by an amendment of the Constitution] increased only if the Board of Governors requests The Amex Corporation to issue additional options principal memberships. Any such issuance of additional options principal memberships shall require the approval of a*

majority of the regular and options principal members voting together as a single class at a meeting called for the purpose of considering the request that additional options principal memberships be issued.

Requirements

(2) An applicant for options principal membership must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. An application for options principal membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. Such applicant must agree that his primary occupation will be the transaction of business in options as principal on the Floor of the Exchange. No person may be admitted to options principal membership unless his application is approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV. *Nothing in this Constitution shall be construed to prohibit NASD Market Holding Company from holding an options principal membership.*

Signing Constitution

(3) No person whose application for options principal membership has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he pledges himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. *In addition, any [Trading Privileges*

(4) An] options principal member or lessee of an options principal membership, by exercising any of the rights inherent in an options principal trading right, shall be deemed to have pledged himself, as though he had signed the Constitution, to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. [may execute on the Floor of the Exchange transactions in options and other derivative products initiated by him for his own account and may give orders in options and other derivative products for his own account to regular members for execution. Such member may not execute agency transactions on the Floor either for customers or for regular, associate or allied members or other options principal members, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products) and may not accept any orders from his member organization for execution.

Derivative products shall include, in addition to standardized options, other securities which are issued by the Options Clearing Corporation or another limited purpose entity or trust and which are based solely on the performance of an index or portfolio of other publicly traded securities.

Notwithstanding the foregoing, derivative products shall not include warrants of any type or closed-end mutual funds.]

Rights

[(5)](4) No change.

Directory

[(6)](5) No change.

Allied [membership] *Membership*

(c) Allied membership—Any person not a regular, options principal or associate member of the Exchange, shall upon approval by the Exchange become an allied member of the Exchange by pledging himself to abide by the Constitution as it has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution, and by becoming either:

[(i)](1) a general partner in a regular, options principal or associate member firm or an employee who controls such member firm;

[(ii)](2) an employee of a regular, options principal or associate member corporation who is either: (1) a person who controls such corporation, or (2) a principal executive officer of such member corporation;

[(iii)](3) a trustee of a regular or options principal member organization which is a pension plan or an employee who controls such organization; or

[(iv)](4) an employee of any other entity permitted by the Exchange to become a member organization who controls such organization.

No further change.

Associate [membership] *Membership*

(d) Associate membership—The number of associate members shall be such as may be determined by the Board of Governors from time to time. Any person not less than the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business either as a partner of a firm or as a director or executive officer of a corporation may make application for associate membership.

An application for associate membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to associate membership unless his application is approved by the Exchange, in accordance with the provisions of Section 1(g) of this Article IV. Any person admitted to associate membership *in the American Stock Exchange, Inc.* prior to September 4, 1962, as an individual or as a partner of a firm shall remain an associate member only so long as he is actively engaged in the business of buying and selling securities as broker or dealer. Any person admitted to associate membership *in the Exchange or in the American Stock Exchange, Inc.* after September 4, 1962, as a partner of a firm shall remain an associate member only so long as he remains a partner of such firm or of another firm continuing the business of the first firm or a director or executive officer of a corporation continuing the business of the first firm. Any person admitted to associate membership *in the Exchange or in the American Stock Exchange, Inc.*, whether before or after September 4, 1962, as a

director or executive officer of a corporation shall remain an associate member only so long as he remains a director or executive officer of such corporation or of another corporation continuing the business of the first corporation.

No further change.

Visiting Floor

No change.

Exchange [not liable to members or member organizations] *Liability*

[(e) The Exchange shall not be liable for any damages sustained by a member or a member organization growing out of the use or enjoyment by such member or member organization of the facilities afforded by the Exchange to members for the conduct of their business, except](e)

Except insofar as the Board may specifically provide by rule with respect to Exchange facilities which implement the electronic transmission of orders for the purchase or sale of securities traded on the Exchange to the Floor of the Exchange or between the Floor of the Exchange and other markets, neither the Exchange nor any of its affiliates nor any of its or their respective officers, governors, committee members, employees or agents shall be liable to a member of the Exchange, a member organization, or a person associated with a member or a member organization for any loss, expense, damages or claims that arise out of the use or enjoyment of the facilities or services afforded by the Exchange, any interruption in or failure or unavailability of any such facilities or services, or any action taken or omitted to be taken in respect to the business of the Exchange except to the extent such loss, expense, damages or claims are attributable to the willful misconduct, gross negligence, bad faith or fraudulent or criminal acts of the Exchange or its officers, employees or agent acting within the scope of their authority.[.]

[Initiation fee] Initiation Fee

(f) No change.

Approval of [membership matters] *Membership Matters*

(g) Whenever pursuant to any of the provisions of this Section 1, the approval, consent, permission, authorization or waiver of the Exchange is required, such approval, consent, permission, authorization or waiver may be granted by the Chairman or by any officer or employee of the Exchange to whom the Chairman has delegated such authority; except that no person who has been expelled from the Exchange or has been declared ineligible for reinstatement pursuant to Section 5(c) of this Article, may be readmitted as a regular, options principal, allied or associate member unless approved by the Board of Governors. If the Chairman or any such officer or employee shall refuse to grant such approval, consent, permission, authorization or waiver, the person or persons affected thereby shall have the right to a hearing on the matter [either (i)] before a committee authorized by the Board[, or (ii) before a panel selected in accordance with the provisions of Section 1(b) of Article V, as the Chairman, or such officer designated by him for the purpose, shall determine]. Such

committee [or panel, as the case may be,] shall have the authority to affirm or reverse the decision of the Chairman or of such duly authorized officer or employee, or to modify such decision or impose such conditions as it shall deem appropriate, and the decision of the committee [or panel] shall be final and conclusive.[, unless within twenty days after such decision is rendered the person or persons affected thereby shall file a written notice with the Secretary of the Exchange appealing such decision to the Board. The Board may consider any such appeal or, in its discretion, under its general powers of delegation, may authorize the Executive Committee to consider the same. The determination of the Board or of the Executive Committee, as the case may be, with respect to any such appeal shall be final and conclusive.]

[Options Trading Permits]

[(i)] Deleted.

Limited Trading Permits

[(j)](h) (1) There shall be [36] a *maximum of ten* limited trading permits [which may be issued to qualified individuals or member organizations with approved nominees (such individuals or the nominees of such organizations being for the purposes of this subsection (j) referred to as limited trading permit holders), as provided in a plan approved by the regular members of the Exchange providing for the offering of such limited trading permits (referred to for the purposes of this subsection (j) as the "Plan")]. Limited trading permits shall expire on May 14 in each year unless renewed by the holder thereof for such fee as may be established from time to time by the Board, which fee shall be not less than \$2,000 nor more than \$5,000 per annum.

Requirements for Issuance

(2) A limited trading permit holder must: [(a)](i) be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business; [(b)](ii) agree that his primary occupation will be the transaction of business on the Floor of the Exchange in his capacity as a permit holder; and [(c)](iii) meet such other qualifications as may be specified in the [Plan or established by the] *plan approved by the regular members of the Exchange providing for the offering of such limited trading permits*. Applications must be approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV.

No person whose application for a permit has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he shall pledge himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions or decisions adopted or made in accordance therewith.

Rights and Obligations

(3) A limited trading permit holder may execute on the Floor of the Exchange transactions in options and other derivative products initiated by him for his own account and may give orders in options and

other derivative products for his own account to regular members for execution provided, however, that a limited trading permit holder may not trade in individual stock options listed on the Exchange.

A limited trading permit holder may not execute agency transactions on the Floor either for customers or for regular, associate, allied or options principal members or other permit holders, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products as described above) and may not accept any orders from his member organization for execution.

Derivative products shall have the meaning described in [the second paragraph of subsection (b)(4) of this Section.] *Section 3(d) of Article I.*

A limited trading permit holder shall not be entitled to vote in any election or on any amendment to the Constitution or on any other matter, to participate in the Gratuities Fund provided for in Article IX of the Constitution, to share in any distribution of the assets or funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution, or winding up of the affairs of the Exchange, or to serve as a Governor of the Exchange. Except as provided above, a limited trading permit holder shall be considered a member of the Exchange for all purposes, and shall be subject to such obligations and duties (including the payment of dues, initiation fees and other fees and charges of the Exchange) as may be imposed on members by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith. (To implement this provision, all provisions of the Constitution and the rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith which by their terms are applicable to regular and options principal members shall be deemed to also apply to and include limited trading permit holders unless the application thereof shall be inconsistent with the specific provisions of this subsection [(j)](h) or unless the context shall otherwise require.)

A limited trading permit may be transferred in the same manner and subject to the same terms and conditions as those applicable to the transfer of an options principal membership. Without limiting the foregoing, a limited trading permit may be leased pursuant to a special transfer agreement as provided in Section 4(b) of this Article IV. The transferee of a limited trading permit shall be subject to payment of an initiation fee equal to that payable by transferees of an options principal membership.

An individual limited trading permit holder who is associated with a broker-dealer shall qualify such broker-dealer as a member organization of the Exchange. If the limited trading permit pursuant to which a member organization is thus qualified shall expire as provided in paragraph (1) of this subsection [(j)](h) such organization shall cease to be a

member organization of the Exchange, unless a person who is a regular, associate or options principal member becomes associated therewith. Upon the expiration of a limited trading permit as provided in paragraph (1) of this subsection [(j)](h), all rights and privileges granted pursuant hereto shall terminate.

Class C Trading Rights

(i) (1) *For a period of five years beginning on the closing date of the Transaction Agreement, Class C Trading Rights may be issued to qualified individuals or organizations who are instrumental in obtaining new listings of securities admitted to dealings on the Exchange that are judged by the Exchange to constitute demonstrable product. The holder of a Class C Trading Right may be registered as a specialist in any such newly listed security, but may not be registered as a specialist in any other securities on the Exchange and may not operate a joint book with a regular member. The Board of Governors shall determine when and to whom to issue Class C Trading Rights and shall further determine the fees, dues, and other charges applicable to Class C Trading Right holders. Each Class C Trading Right shall expire three years after the date of its issuance, or at the end of the five year period referred to above, whichever first occurs, and no more than 25 Class C Trading Rights shall be outstanding at any time.*

A Class C Trading Right shall not entitle the holder (i) to vote in any election, (ii) to participate in the Gratuities Fund provided for in Article IX of the Constitution, (iii) to share in any distribution of the assets or funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution, or winding up of the affairs of the Exchange, or (iv) to serve as a Governor of the Exchange. Except as provided above, a Class C Trading Right holder shall be considered a member of the Exchange for all purposes, and shall be subject to such obligations and duties as may be imposed on members by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith. (To implement this provision, all provisions of the Constitution and the rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith which by their terms are applicable to regular and options principal members shall be deemed to also apply to and include Class C Trading Right holders unless the application thereof shall be inconsistent with the specific provisions of this subsection (i) or unless the context shall otherwise require.)

A Class C Trading Right may not be sold, leased or otherwise transferred, provided, however, that subject to the approval of such transfer by the Exchange, a Class C Trading Right may be sold or otherwise transferred in connection with a business combination, reorganization or other transfer of all or substantially all of the assets of one member organization to another. A specialist holding a Class C Trading Right who then becomes a regular member shall be deemed to have

continued his registration as specialist in the securities allocated to him without any need for reallocation thereof.

(2) *A Class C Trading Right holder must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. No person whose application for a Class C Trading Permit has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he shall pledge himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions or decisions adopted or made in accordance therewith.*

New Trading Rights

(j) *The Board of Governors shall not authorize the issuance of any new forms of trading privileges not provided for in this Constitution, or grant materially new rights to the holders of existing privileges, without first obtaining the consent of The Amex Corporation in accordance with the terms of its amended and restated certificate of incorporation.*

Article IV. Membership

Sec. 02. Members, Member Organizations and Membership Owners

Approval of [organizations] Organizations

(a) No change.

Approval of [members and persons associated with member organizations] *Members and Persons Associated with Member Organizations*

(b) No change.

Member [limited to one member organization] *Limited to One Member Organization*

(c) No change.

Conditions of [approval of member organizations] *Approval of Member Organizations*

(d) No change.

(e) No change.

Withdrawal of [approval of member organizations] *Approval of Member Organizations*

(f) No change.

Approval [revocable] *Revocable*

(g) No change.

Withdrawal of [approval of certain stockholders] *Approval of Certain Stockholders*

(h) No change.

Non-[voting common stock] *Voting Common Stock*

(i) No change.

Approved [persons] *Persons*

(j) No change.

Location

(k) No change.

Registered [address] *Address*

(l) No change.

Offices	Contracts [pending transfer] <i>Pending Transfer</i>	<i>Article IV. Membership</i>
(m) No change.	(d) No change.	<i>Sec. 05. Reinstatement</i>
Employees and [officers] <i>Officers</i>	Closing [contracts] <i>Contracts</i>	Reinstatement by Board
(n) No change.	No change.	(a) Every application for reinstatement by a member, member organization or owner of a membership suspended pursuant to Section 3 of Article V shall be referred to [the Executive Committee, or such other] <i>such</i> committee as may be appointed by the Board of Governors for such purpose. A hearing shall be held by the committee with respect to such application and a record shall be kept. No application for reinstatement shall be considered with respect to a member, member organization or owner of a membership as to whom dues, fines, assessments or charges of the Exchange, or contributions to the Gratuities Fund (as provided in Article IX) are due and unpaid. If the committee shall determine to reinstate a member, member organization or owner of a membership suspended under the provisions of Section 3 of Article V, it may impose such conditions as it shall deem appropriate. If the committee shall determine not to reinstate such suspended member, member organization or owner of a membership, its determination shall be supported by a statement setting forth the specific grounds on which the application for reinstatement is denied.
Written [notification of proposed acts] <i>Notification of Proposed Acts</i>	Transfer by Board	Reinstatement by Chairman
(o) No change.	No change.	(b) Notwithstanding the foregoing provisions of this Section 5, whenever it shall appear to the Chairman:
Assignment of [membership or interest in member organization] <i>Membership or Interest in Member Organization</i>	Distribution of [proceeds] <i>Proceeds</i>	(1) that a member or member organization has been suspended pursuant to subsection (a) or (b) of Section 3 of Article V, and that the conditions resulting in such suspension no longer exist or the suspension of such member or member organization by another registered national securities exchange or national securities association has been terminated by such other exchange or securities association; and
(p) No change.	(e) No change.	(2) that prompt reinstatement is advisable to avoid substantial loss to the public, to the Exchange or to the member or member organizations; and
Submission of [information] <i>Information</i> as to [proposed changes] <i>Proposed Changes</i>	Exchange [charges] <i>Charges</i>	(3) that it is not practicable to convene a meeting of the Board of Governors immediately to act in the matter;
(q) No change.	No change.	the Chairman may announce to the Exchange the reinstatement of such member or member organization. Any reinstatement pursuant to this subsection (b) shall be effective immediately, but shall be submitted to the Board of Governors as soon as reasonably practicable and unless approved by the Board such reinstatement shall forthwith terminate.
Retirement from [member organization] <i>Member Organization</i>	Claims of [regular or options principal members or member organizations] <i>Regular or Options Principal Members or Member Organizations</i>	Denial for [irregularities] <i>Irregularities</i>
(r) No change.	No change.	(c) Whenever an Exchange Disciplinary Panel shall determine that a member, member organization or owner of a membership suspended under the provisions of Section 3 of Article V, has been guilty of irregularities or unbusinesslike dealings, it may declare such member, member organization or owner of a membership ineligible for reinstatement. Any such determination shall be made only after the suspended member, member organization or owner of a membership has been given notice
Number of [partners] <i>Partners</i>	Floor [contracts] <i>Contracts</i>	
(s) No change.	[(A)](1) Claims arising in the ordinary course of business from Exchange Contracts for the purchase, sale, borrowing or loaning of securities entered into on the Floor of the Exchange.	
Suspended [members] <i>Members</i> , etc.	Other [ordinary business contracts] <i>Ordinary Business Contracts</i>	
(t) No change.	[(B)](2) Claims arising from Exchange Contracts entered into in the ordinary course of business other than those included in the preceding paragraph.	
Continuing [relationship of member or member organization with suspended member or person expelled] <i>Relationship of Member or Member Organization with Suspended Member or Person Expelled</i> from Exchange	Other [business contracts] <i>Business Contracts</i>	
(u) No change.	[(C)](3) Claims arising from Exchange Contracts other than those included in the two preceding paragraphs, except those made for nonbusiness purposes.	
Required [vote] <i>Vote</i> of Exchange in [certain cases] <i>Certain Cases</i>	Contracts [under rules of another exchange] <i>Under Rules of Another Exchange</i>	
(v) No change.	[(D)](4) Claims arising from members' contracts made subject to the rules of another exchange.	
<i>Article IV. Membership</i>	Pro [rata distribution] <i>Rata Distribution</i>	
<i>Sec. 03. Member Representation</i>	No change.	
Governor and Exchange Official Representatives	Unmatured [contracts] <i>Contracts</i>	
(a) No change.	No change.	
Temporary [representatives] <i>Representatives</i>	Contingent [claims] <i>Claims</i>	
(b) No change.	No change.	
Representation [while engaged in military or naval service or in public program for defense] <i>While Engaged in Military or Naval Service or in Public Program for Defense</i> of U.S.	Collateral	
(c) No change.	No change.	
Representation [while engaged in military or naval training service] <i>While Engaged in Military or Naval Training Service</i>	Determination of [claims] <i>Claims</i>	
(d) No change.	No change.	
Withdrawal of [authorization] <i>Authorization</i>	Surplus [after claims] <i>After Claims</i>	
(e) No change.	No change.	
Contracts by [representatives] <i>Representatives</i>	Filing [claims] <i>Claims</i>	
(f) No change.	(f) No change.	
<i>Article IV. Membership</i>	Intra-[partnership or intra-corporation claims] <i>Partnership or Intra-Corporation Claims</i>	
<i>Sec. 04. Transfer of Membership</i>	(g) No change.	
Charges [pending] <i>Pending</i>	Disposal of [membership] <i>Membership</i> by Board	
(a) No change.	(h) No change.	
Special [transfer] <i>Transfer</i> and [designation] <i>Designation</i> of [nominee] <i>Nominee</i>	Rights of [creditors] <i>Creditors</i>	
(b) No change.	(i) No change.	
Election of [transferee] <i>Transferee</i>	Rights of [creditor's estate] <i>Creditor's Estate</i>	
(c) No change.	(j) No change.	

and an opportunity to be heard by the Disciplinary Panel in accordance with the procedures specified in Section 1(b) of Article V and such determination shall be subject to review in accordance with the provisions of paragraph [(5)](7) of said Section.

Article IV. Membership

Sec. 06. Temporary Member Firms and Corporations

Death of [sole regular or options principal member associated with regular or options principal member organization] *Sole Regular or Options Principal Member Associated with Regular or Options Principal Member Organization*

(a) No change.

Application [requirements] *Requirements*

(b) No change.

Provisions of [articles of partnership;] *Articles of Partnership*; Use and [proceeds of membership] *Proceeds of Membership*

(1) No change.

Continuance in [business;] *Business*; Use and [proceeds of membership] *Proceeds of Membership*

(2) No change.

Agreement to be [filed;] *Filed*; Subject to [rules] *Rules*

(3) No change.

Capital

(4) No change.

Application [requirements] *Requirements*

(c) No change.

Continuance in [business] *Business*

(1) No change.

Use and [proceeds of membership] *Proceeds of Membership*

(2) No change.

Agreement to [be filed;] *Be Filed*; Subject to [rules] *Rules*

(3) No change.

Capital

(4) No change.

Rights and [privileges] *Privileges*

(d) No change.

Exceptions

No change.

Status [effective] *Effective*

(e) No change.

Termination of [status] *Status*

(f) No change.

Proceeds of [membership subject to claims] *Membership Subject to Claims*

(g) No change.

Article IV. Membership

Sec. 07. Disposal of [Regular] *Regular* Memberships by the Board Transfer to Chairman as [trustee] *Trustee*

(a) No change.

Owner [ceases to be member on transfer of membership to trustee] *Ceases to be Member on Transfer of Membership to Trustee*

(b) No change.

Purposes for [which membership is transferred to trustee] *Which Membership is Transferred to Trustee*

(c) No change.

Prices at [which trustee memberships shall be offered] *Which Trustee Memberships Shall be Offered No change.*

Transfer to [applicant] *Applicant for [membership] Membership*

No change.

Membership [may be reacquired by suspended member upon payment of amount due] *May be Reacquired by Suspended Member Upon Payment of Amount Due No change.*

Distribution of [proceeds] *Proceeds of [sale] Sale*

No change.

If [applicant fails in election, disposal of membership] *Applicant Fails in Election, Disposal of Membership* is to be [recommended] *Recommended*

No change.

Transfer to Exchange of [membership not sold or redeemed] *Membership Not Sold or Redeemed*

No change.

Memberships [transferred] *Transferred to Exchange to be [retired] Retired*

(d) No change.

Trustee [not liable] *Not Liable*

(e) No change.

Notice to be [given] *Given of [offering price] Offering Price*

(f) No change.

Article V. Discipline of Members

Sec. 01. [Procedure] *Procedures*

Assistance of [counsel permitted] *Counsel Permitted*

(a) No change.

Hearing before Disciplinary Panel

(b) Except as provided in Section 2 of this Article, Exchange disciplinary proceedings shall be conducted in the following manner:

(1) *Disciplinary Panel*. In any disciplinary proceeding involving charges against a member, member organization, approved person, or a registered or non-registered employee or prospective employee of a member or member organization, a hearing shall be held with respect to such charges before an Exchange Disciplinary Panel. Such Disciplinary Panel shall consist of not less than three nor more than five persons: a hearing officer who shall be chairman of the Panel with the remainder of the Disciplinary Panel being members of the hearing board.

(2) *Hearing Board*. The Chairman of the Board, subject to the approval of the Board, shall from time to time designate such number of Exchange Officials and shall appoint such number of additional persons to serve on the hearing board as he shall deem

necessary for the purpose of conducting Exchange disciplinary proceedings. The qualifications of persons to be appointed to the hearing board shall be determined in accordance with such rules as may be adopted by the Board of Governors, except that members of the Board of Governors shall not be eligible for appointment to the hearing board or as hearing officers. Exchange Officials and other persons appointed to the hearing board as herein provided shall serve at the pleasure of the Board of Governors or until [the next annual election of the Exchange and] their successors are appointed and take office.

(3) *Hearing Officer*. The Chairman of the Board, subject to the approval of the Board, shall designate one or more hearing officers who shall have no Exchange duties or functions relating to the investigation or preparation of disciplinary matters.

(4) *Composition of Disciplinary Panel*. In any hearing at which a charge or charges against a member, member organization, or approved person are considered pursuant to this Article, the members of the hearing board serving on the Disciplinary Panel shall, except as hereinafter provided, be members of the Exchange.

In any hearing at which a charge or charges against a registered or non-registered employee or prospective employee of a member or member organization are considered pursuant to this Article or pursuant to rules adopted by the Board of Governors, the members of the hearing board serving on the Disciplinary Panel shall include at least one registered employee or nonregistered employee of a member or member organization; in the discretion of the chairman of the Disciplinary Panel the remainder thereof may be members of the Exchange.

In any hearing at which a charge or charges against both a registered or non-registered employee or prospective employee of a member or member organization and against a member, member organization or approved person are considered pursuant to this Article or pursuant to rules adopted by the Board of Governors, the members of the hearing board serving on the Disciplinary Panel shall include one registered employee or non-registered employee of a member or member organization and the remainder thereof shall be members of the Exchange.

Subject to the foregoing provisions of this paragraph, the selection of the hearing officer to serve as the chairman of each Disciplinary Panel and the members of the hearing board to serve thereon shall be made in accordance with such rules as may be adopted by the Board of Governors. For all purposes of this Article, the decision of a majority of the members of a Disciplinary Panel shall be the decision of such Disciplinary Panel and shall be final and conclusive, except to the extent that such decision may be revised on review as provided in [paragraph (7) of this] Section [1(b)] *1(c)*.

(5) The Board of Governors, in accordance with the provisions of Section 2 of Article II, shall adopt such rules and prescribe such procedures not inconsistent with the provisions of this Article as it may deem necessary or appropriate for the conduct of

Exchange disciplinary proceedings and investigations, and may from time to time amend, alter or repeal any such rules or procedures.

(6) An accusation, charging a member, member organization or approved person before an Exchange Disciplinary Panel with having committed an offense, shall be in writing; it shall specify the charge or charges against such member, member organization or approved person with reasonable detail, and shall be signed by the person or persons making the charge or charges. A copy of such charge or charges, shall be served upon the accused member, member organization or approved person either personally, or by leaving the same during business hours at the office address of such member, member organization or approved person or by mailing it to such member, member organization or approved person at his or its office address or place of residence. The accused shall have twenty days from the date of such service to answer such charge or charges, or such further time as the Exchange in its discretion may deem proper. An answer shall be in writing, signed by or on behalf of the accused member, member organization or approved person and shall be filed with the Secretary of the Exchange. If so expressly required in the charge or charges, the answer shall specifically indicate which statements, or portions thereof, contained in the charge or charges are denied and which are admitted, and any such statements or portions thereof in the charge or charges which are not specifically denied shall be deemed to be admitted. The answer shall also contain in reasonable detail any affirmative defense which the accused wishes to submit and shall include any documents which the accused wishes to submit in support of the answer. Upon the answer being filed, or if the accused shall refuse or neglect to make answer as hereinbefore required, the Disciplinary Panel shall, at a hearing called for that purpose, proceed to consider the charge or charges. The Exchange shall cause copies of the charge or charges, and of the answer, if any, and of any documents submitted in support thereof by the accused, to be mailed or otherwise delivered to each member of the Disciplinary Panel at least five days before such hearing. Notice of such hearing shall be sent to the accused; the accused member, or any person associated with the accused member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, or the accused approved person, shall be entitled to be present personally thereat, and shall be permitted to examine and cross-examine all of the witnesses produced before the Disciplinary Panel, and also to present such testimony, defense or explanation as may be deemed responsive to the charge or charges. Any witnesses produced by the accused shall be subject to cross examination. After hearing all the witnesses produced before the Disciplinary Panel and after hearing the accused the Disciplinary Panel shall determine whether or not the accused member, the accused member organization or the accused approved person is guilty of the

offense or offenses charged. If it determines that the accused is guilty, the Disciplinary Panel may fix and impose the penalty. Any such determination shall be supported by a written statement setting forth (i) any act or practice in which such member, member organization or approved person is found to have engaged or which such member, member organization or approved person is found to have omitted, (ii) the specific provision of the Securities Exchange Act of 1934, as amended, the rules and regulations thereunder, the Constitution or the rules, procedures or policies of the Exchange, which any such act, practice or omission to act is deemed to violate, and (iii) the penalty imposed and the reasons therefore. Such written statement shall be served upon the accused in the manner hereinbefore provided, and a copy thereof shall be sent to each member of the [Board of Governors] *Amex Adjudicatory Council*. The determination of the Disciplinary Panel and any penalty imposed shall become final and conclusive twenty days after notification thereof to the accused, provided, however, that if a request for review of such determination or penalty, or both, is filed, as hereinafter provided, the penalty shall be stayed pending the result of such review.

Review by Amex Adjudicatory Council

(c)[7] Any member, member organization or approved person determined to be guilty of a charge or charges before an Exchange Disciplinary Panel pursuant to this Article may require [a review of] *that* such determination [or of any] *the* penalty imposed by the Disciplinary Panel, or [of] both the determination and the penalty]. Upon the request of any four members of the Board of Governors, any determination by a Disciplinary Panel pursuant to this Article or any penalty imposed by such Disciplinary Panel, or both, shall be subject to review as hereinafter provided] *be reviewed by the Amex Adjudicatory Council*. A request for such review of [such] *an Exchange Disciplinary Panel* determination or penalty shall be made in writing and filed with the Secretary of the Exchange within twenty days after notification of the determination and penalty, if any, is served upon the accused member, member organization or approved person.

[The review of a disciplinary proceeding by the Board shall be conducted at a regular or special meeting called for the purpose and notice of the object thereof shall be sent to the members of the Board. Fifteen governors shall be required to constitute a quorum for any meeting of the Board at which the Board shall review a disciplinary proceeding as herein provided, and any action shall pursuant to the vote of a majority of the governors present at such meeting shall be the action of the Board] *An Exchange Disciplinary Panel determination or penalty shall also be subject to review by the Amex Adjudicatory Council upon a call for review by any member of the Council within thirty days after service of the Panel's determination.*

In connection with any such review[, the Board may affirm any] *of an Exchange Disciplinary Panel*

determination [by the Disciplinary Panel or sustain any penalty imposed, or both, may] *or penalty, the Amex Adjudicatory Council may, as it deems appropriate, (i) affirm, modify or reverse [any such] the determination[, or may] made by the Disciplinary Panel; and (ii) sustain, decrease or eliminate any [such penalty] penalty imposed by the Disciplinary Panel, or impose any lesser penalty permitted under the provisions of this Article [, as it deems appropriate; or if the Board shall determine].*

If the Amex Adjudicatory Council determines that the Disciplinary Panel has not adequately considered all of the matters which should have been considered in connection with the charge or charges, or has improperly applied or interpreted the Constitution, rules, requirements and policies of the Exchange, or has imposed a penalty or penalties which the [Board] Council determines to be inadequate in light of all the circumstances, the [Board] Council may remand the matter to the Disciplinary Panel for further consideration consistent with such determination. Upon such remand, the Disciplinary Panel shall conduct a further hearing in accordance with the provisions of [this] subsection (b) and may as a result thereof modify, reverse or reaffirm its previous determination or impose any penalty permitted under this Article regardless of whether such penalty shall be greater than the penalty imposed as a result of the original hearing. Any determination or penalty imposed by the Disciplinary Panel as a result of a remand from the Amex Adjudicatory Council shall be subject to further review upon request as hereinabove provided.

[If, upon review, the matter is not remanded to the Disciplinary Panel, the determination and penalty, if any,] *The Amex Adjudicatory Council shall transmit its proposed written decision to each member of the Board [shall be final and conclusive] of Governors. The Board may call the proceeding for review pursuant to Section 2(d) of this Article. If the Board does not call the proceeding for review, the proposed written decision of the Amex Adjudicatory Council shall become final. Unless the Amex Adjudicatory Council remands the proceeding, the decision shall constitute the final action of the Exchange.*

Discretionary Review by the Board of Governors

(d) *Upon the request of any four its members, the Board of Governors may review a proposed written decision of the Amex Adjudicatory Council. Such a request for review shall be made not later than the next meeting of the Board of Governors that is at least 15 days after that date on which the proposed written decision of the Amex Adjudicatory Council is transmitted to the Board. By a unanimous vote of the Board of Governors, the Board may shorten the period to less than 15 days. By an affirmative vote of the majority of the Board then in office,*

the Board may, during the 15 day period, vote to extend the period to more than 15 days. The review by the Board of Governors shall occur not later than the next regularly scheduled meeting of the Board following the request for review. Ten governors shall be required to constitute a quorum for any meeting of the Board at which the Board shall review a disciplinary proceeding as herein provided, and any action taken pursuant to the vote of a majority of the governors present at such meeting shall be deemed to be the action of the Board.

After review, the Board of Governors may affirm, modify, or reverse the proposed written decision of the Amex Adjudicatory Council. Alternatively, the Board of Governors may remand the proceeding with instructions. The decision of the Board of Governors shall constitute the final action of the Exchange, unless the Board remands the proceedings.

Disciplinary Fine Systems

[(c)](e) The Board shall adopt such rules as it deems necessary or appropriate to implement disciplinary fine systems for the resolution of minor rule violations and shall delegate appropriate authority to officers and employees of the Exchange to properly administer such fine systems.

Discussing [charges prohibited] *Charges Prohibited*

[(d)](f) No person, firm or corporation under charges before a Disciplinary Panel shall discuss [with any member] the subject of such [Panel or] charges with any member of the [Board, nor shall any] Panel, the Amex Adjudicatory Council, or the Board of Governors. No member of the [Panel or any member of the Board] Board of Governors, the Amex Adjudicatory Council, or a Disciplinary Panel shall discuss charges made in a disciplinary proceeding with any [such] person, firm or corporation being charged, or with any one representing [him or it directly or indirectly, the subject of such charges. [such person, firm or corporation.

Announcement of [results] *Results*

[(e)](g) The Board of Governors shall adopt rules governing the announcement of the results of any disciplinary proceeding conducted pursuant to the provisions of this Article, provided, however, that no such announcement shall be permitted until there shall have been a final determination by the Exchange with regard to such disciplinary matter and the penalty, if any, to be imposed.

Article V. Discipline of Members

Sec. 02. Delegation of Disciplinary [Power] Powers

Stipulation of [facts] *Facts* and [consent] Consent to [penalty] *Penalty*

In lieu of the procedures set forth in paragraph 6 of Section 1(b) of this Article, a Disciplinary Panel, selected in accordance with the provisions of Section 1(b) of this Article, at a hearing called for that purpose may determine whether any member, member organization or approved person is guilty of having committed an offense or offenses on the basis of a written stipulation of facts and consent to a specified penalty

entered into between such member, member organization or approved person and any officer of the Exchange, and may fix and impose the penalty agreed to in such stipulation and consent or any lesser penalty. A written notice of the result shall be served upon the member, member organization or approved person in the manner provided in subsection (b) of Section 1 of this Article, and a copy thereof shall be sent to each member of the [Board of Governors] Amex Adjudicatory Council. The determination of the Disciplinary Panel and any penalty imposed shall become final and conclusive ten days after notification thereof to the accused, provided, however, that if a request for review by the [Board of Governors] Amex Adjudicatory Council of such determination or penalty, or both, is filed as hereinafter provided, the penalty shall be stayed pending the result of such review. If the Disciplinary Panel rejects the stipulation and consent to a specified penalty, the matter shall proceed as if the stipulation and consent had not been entered into, and such stipulation and consent shall be disregarded in any subsequent proceeding. A written notice of such rejection by the Disciplinary Panel shall be served upon the member, member organization or approved person in the manner provided in subsection (b) of Section 1 of this Article.

Upon the request of any [four members of the Board of Governors, the Board or a committee of governors delegated by the Board] member of the Amex Adjudicatory Council, the Council shall review the determination of, or the penalty imposed by, a Disciplinary Panel in connection with a written stipulation of facts and consent to a specified penalty. Any such request for review of such determination or penalty shall be made in writing and filed with the Secretary of the Exchange within ten days after notification of the determination and penalty, if any, is served upon the accused member, member organization or approved person. Upon review, the [Board or the review committee] Amex Adjudicatory Council may fix and impose the penalty agreed to in such stipulation and consent, or impose a lesser penalty or reject such consent, as it deems appropriate. [The quorum and vote required for such action by the Board shall be the quorum and vote provided in Section 1(b)(7) of this Article.

Article V. Discipline of Members

Sec. 03. Suspension in View of Financial or Operating Conditions

Automatic [suspension] *Suspension*

(a) No change.

Suspension by Chairman

(b) Whenever it shall appear to the Chairman that a member or a member organization has failed to meet his or its engagements or is insolvent, or [the Chairman has been advised by the Executive Committee that such member or member organization is, in its opinion,] is in such financial or operating condition that he or it cannot be permitted to continue in business with safety to investors, his or its creditors, other members of the Exchange, or whenever it shall appear to the Chairman that a

member or member organization has been suspended by another registered national securities exchange or national securities association for failure to meet his or its engagements, for insolvency or for being in such financial or operating condition that he or it cannot be permitted to continue in business with safety to investors, his or its creditors, other members, or such other exchange or securities association, the Chairman shall announce to the Exchange the suspension of such member or member organization, which suspension shall continue until such member or member organization has been reinstated as provided in Section 5 of Article IV.

Investigation by Exchange

(c) No change.

Sale of [regular or options principal membership and revocation of associate membership] *Regular or Options Principal Membership and Revocation of Associate Membership*

(d) No change.

Failure to [pay dues] *Pay Dues*, etc.

(e) No change.

(f) Any member or member organization suspended under the provisions of subsections (a) or (b) of this Section 3 shall be granted promptly a hearing with regard to such suspension before the [Executive Committee,] Board or such [other] committee as may be appointed by the Board for such purpose. Any determination by the Board or such committee as a result of such hearing to affirm the suspension shall be supported by a statement setting forth the specific grounds on which the suspension is based.

Article V. Discipline of Members

Sec. 04. Suspension or Expulsion

Examination by [another exchange] *Another Self-Regulatory Organization*

(a) If the Board of Governors shall deem that it is in the interest and welfare of the Exchange or in the public interest, or appropriate or necessary for the maintenance of just and equitable principles of trade, to facilitate the examination by the authorities of another [exchange] self-regulatory organization of any transaction in which a member or member organization of the Exchange has been concerned and that the testimony of such member or his employees or the testimony of such member organization or the members associated therewith, or approved persons or employees thereof or the books and papers of such member or member organization or the books and papers of any such persons are material to such examination and shall direct such member or member organization to appear and testify, or to cause any of such persons to appear and testify, or to produce such books and papers before the authorities of such other [exchange] self-regulatory organization, or any committee thereof, for the purposes of such examination, and the member or member organization of the Exchange shall refuse or fail to comply with any such direction, the member or the member organization may be adjudged guilty of an act detrimental to the interest and welfare of the Exchange.

Fraud

(b) No change.

Fictitious [transactions] *Transactions*

(c) No change.

Market [demoralization] *Demoralization*

(d) No change.

Misstatements

(e) No change.

Fraud [prior to election or approval] *Prior to Election or Approval*

(f) No change.

[Dealings on another exchange

(g) Rescinded effective August 19, 1976.](g)
[Reserved]Violation of Constitution, [rules] *Rules* or
[resolution] *Resolution*—Inequitable
[conduct] *Conduct*

(h) No change.

Violation of Securities Exchange Act

(i) No change.

Acts [detrimental] *Detrimental* to Exchange

(j) No change.

Failure to [testify] *Testify*

(k) No change.

Improper [conduct] *Conduct*

(l) No change.

Betting

(m) No change.

Fines in [addition] *Addition* to or in [lieu
of suspension or expulsion] *Lieu of
Suspension or Expulsion*

(n) No change.

Termination of [rights] *Rights* by [expulsion]
Expulsion

(o) No change.

Termination of [rights] *Rights* by
[suspension] *Suspension*

(p) No change.

Proceedings [against suspended member or
member organization] *Against Suspended
Member or Member Organization*

(q) No change.

Responsibility for [acts] *Acts* of [others]
Others

(r) No change.

Suspension or [expulsion of members of
suspended or expelled member, member
organization] *Expulsion of Members of
Suspended or Expelled Member, Member
Organization*

(s) No change.

Continued [failure] *Failure* to [pay fines,
dues] *Pay Fines, Dues, etc.*

(t) No change.

Article V. Discipline of Members

Sec. 05. Suspension, Expulsion or Bar by
Another Regulatory Authority

(a) No change.

Procedure

(b) In any proceeding under this Section 5, the method of procedure required by Section 1(b) of this Article V shall not apply, but the accused shall be given not less than ten days'

notice in writing that an Exchange Disciplinary Panel will conduct a hearing to determine whether or not to suspend or expel the accused, as the case may be, as provided in this Section 5. At the hearing before the Disciplinary Panel, the accused member, or any person associated with the accused member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, shall be afforded an opportunity to explain why it would be inappropriate for the Disciplinary Panel to accept the finding of such other exchange, association or agency or to suspend or expel the accused, notwithstanding the suspension, expulsion or bar by such other exchange, association or agency. In the event that the Disciplinary Panel determines not to accept the finding of guilt by such other exchange, association or agency, it may order a proceeding under any other Section of this Article V. In the event that the accused fails or refuses to appear before the Disciplinary Panel, the Disciplinary Panel may nevertheless determine the matter and suspend or expel the accused as provided in this Section 5. If the Disciplinary Panel determines to accept the finding of guilt by such other exchange, association or agency and to suspend or expel the accused, such determination shall be supported by a written statement setting forth the specific grounds on which such action is based. Such written statement shall be served upon the accused in the manner provided by Section 1(b) of this Article V, and a copy thereof shall be sent to each member of the [Board of Governors] *Amex Adjudicatory Council*. Any action by an Exchange Disciplinary Panel pursuant to this Section 5 shall be subject to review in accordance with the procedures specified in [Section 1(b)] *Sections 1(c) and (d)* of this Article V. In the event no request for review is filed within twenty days after the accused is notified of the determination of the Disciplinary Panel, such determination shall become final and conclusive.

(c) No change.

Article V. Discipline of Members

Sec. 06. Retention of Jurisdiction over Former
Members

If, during the period of one year immediately following (a) the termination of a person's status as a member or member organization, (b) receipt by the Exchange of written notification of such termination, or (c) receipt by the Exchange of any amendment to such termination notice, whichever occurs later, the Secretary of the Exchange gives written notice to such person that the Exchange is making inquiry into any specified matter or matters occurring prior to the termination of such person's status as a member or member organization, the Board of Governors, the Chairman or any committee authorized by the Board or the Constitution may thereafter require such person to submit to the Exchange books and papers relating to the matter or matters specified in such notice, or to furnish information to, or to appear and testify before, the Board, the Chairman, any such committee or such officers, employees or representatives of the

Exchange as may be designated by the Chairman or such committee with respect to any such matter. Following the termination of such person's status as a member or member organization, provided such notice is given, such person may be charged with having refused or failed to comply with any such requirement or, as a result of the inquiry into the matter or matters specified in such notice, such person may be charged with having committed, prior to termination, any other offense with which such person might have been charged had such status not been terminated. Any charge against a former member or member organization may be brought before an Exchange Disciplinary Panel and determined as provided in Section 1(b) of this Article V in the case of a member or member organization. Whenever an Exchange Disciplinary Panel shall determine that any such former member or member organization is guilty of the offense or offenses charged, it may impose a fine, impose a censure, or direct that such person not be admitted or re-admitted as a member or member organization for a specified period of time; and, in the case of a former member, the Exchange may thereafter refuse to approve the employment of such person by a member or member organization:

(a) for such period of time as the Exchange may determine, or

(b) until such time as the Board, any committee authorized by the Board or the Constitution, or the Chairman or any officer, employee or representative of the Exchange designated by the Chairman, shall have completed the investigation of the matter with respect to which such former member or member organization refused or failed to submit books and papers, or to furnish information, or to appear and testify, and until the passage of such further period of time, if any, as the Exchange Disciplinary Panel shall have specified.

Article VI. Commissions

[Rescinded effective May 1, 1976.]
Intentionally omitted.

Article VII. Fees and Dues

Sec. 01. Annual Membership Fees

Regular [members] *Members*

[(a) Regular members—The initiation fee for regular membership shall be based upon the latest price at which a regular membership shall have been sold and transferred to an applicant for membership, otherwise than for a nominal consideration or through a private sale prior to the date when such initiation fee is due. Such initiation fee shall be \$1,000, if such sale price shall have been \$5,000 or less, and such fee shall be increased by \$500 for each additional \$5,000; but in no case shall such initiation fee exceed \$2,500.

Notwithstanding the foregoing provisions of this subsection,](a) *Regular members—The initiation fee for regular membership shall be \$2,500; provided, however, that if a regular member who is associated with a member organization transfers his membership to another person associated with such member organization and such organization continues to engage in the business of buying and selling securities as brokers or dealers*

without interruption or change, other than such changes as may be occasioned by the death or retirement of the regular member whose membership is being transferred, the initiation fee payable in connection with such transfer shall be \$1,500.

Notwithstanding other provisions of the Constitution, an applicant for regular membership who is an associate member on the effective date of this amendment and continues to be such down to the date of the filing of his application for regular membership, or is a general partner or a director of a firm or corporation which was an associate member firm or corporation on the effective date of this amendment and continues to be an associate member firm or corporation down to the date of the filing by such applicant of his application for regular membership, shall not be required to pay any initiation fee.

The above initiation fee shall be paid prior to the approval by the Exchange of an applicant for regular membership.

[Transfer of Chairman's membership

[The Board may nevertheless permit the transfer, without payment of any initiation fee, of a regular membership of a person elected to the office of Chairman and of a regular membership transferred to a person who has ceased to be Chairman if such person transferred a regular membership formerly owned by him in order to qualify as Chairman.

[Associate membership of Chairman

[Notwithstanding the provisions of this subsection the Exchange may approve as an associate member, without payment of an initiation fee, one who was a partner of the Chairman at the time of his election, but such associate membership shall continue only so long as such Chairman shall continue in office. The Exchange may also permit a former Chairman to become an associate member, without payment of any initiation fee, if he ceased to be an associate member of the Exchange by reason of his election to the office of Chairman.

[(b) Options principal members—A person acquiring an options principal membership directly from the Exchange pursuant to a plan offering such memberships to qualified applicants, and paying to the Exchange the fee prescribed in such plan for an options principal membership, shall not be required to pay an initiation fee. In all other cases (except as hereinafter provided), the initiation fee for options principal membership shall be based upon the latest price at which an options principal membership shall have been sold and transferred to an applicant for membership, otherwise than for a nominal consideration or through a private sale, prior to the date when such initiation fee is due. Such initiation fee shall be \$1,000, if such sale price shall have been \$5,000 or less, and such fee shall be increased by \$500 for each additional \$5,000, or fraction thereof, by which such sale price shall have exceeded \$5,000; but in no case shall such initiation fee exceed \$2,500.

[Notwithstanding the foregoing provisions of this subsection,](b) *Options principal members—The initiation fee for options*

principal membership shall be \$2,500; provided, however, that if an options principal member who is associated with a member organization transfers his membership to another person associated with such member organization and such organization continues to engage in the business of buying and selling securities as brokers or dealers without interruption or change, other than such changes as may be occasioned by the death or retirement of the options principal member whose membership is being transferred, the initiation fee payable in connection with such transfer shall be \$1,500.

The initiation fee required by this subsection shall be paid prior to the approval by the Exchange of an applicant for options principal membership.

(c) No change.

(d) No change.

Associate Members

(e) No change.

(f) No change.

Article VII. Fees and Dues

Sec. 02. Dues, Fines and Assessments

Payment of [dues] Dues

(a) No change.

Apportionment of [dues] Dues

No change.

Exchange to [return unexpired dues paid by transferor and collect from transferee] *Return Unexpired Dues Paid by Transferor and Collect from Transferee*

(b) No change.

Unpaid [dues to date of transfer collectible from proceeds of sale] *Dues to Date of Transfer Collectible from Proceeds of Sale*

(c) No change.

Liability for [dues] *Dues* until [transfer] *Transfer*

(d) No change.

(e) No change.

Article VII. Fees and Dues

Sec. 03. Associate Member Fees

Fee [where associate member becomes director or executive officer of corporation] *Where Associate Member Becomes Director or Executive Officer of Corporation*

No change.

Article VII. Fees and Dues

Sec. 04. Special Charge

Exchange [may impose on members fees based on transactions] *May Impose on Members Fees Based on Transactions*

The Board of Governors may impose upon regular, options principal and associate members and upon regular, options principal and associate member organizations a charge on each securities transaction effected through the facilities of the Exchange, and may change, remove, and reimpose such charge. In fixing the amount of such charge, the Board may establish different rates for transactions effected for non-members, for members and member organizations and for various categories of members, or may omit

such charge for any category or categories of members or member organizations and may establish different rates for transactions effected in different securities or through different mechanisms. Such charges shall be payable at such times and shall be collected in such manner as the Board may determine, and the proceeds thereof shall be deposited among the general funds of the Exchange.

Article VII. Fees and Dues

Sec. 05. Options Transactions

In lieu of the charge authorized by Sec. 4 of this Article VII, the Board of Governors may impose upon regular, options principal and associate members and upon regular, options principal and associate member organizations in respect of options transactions effected on the Exchange a charge for each such options transaction, and may from time to time change, remove, and reimpose such charge. In fixing the amount of such charge, the Board may establish different rates for options transactions effected for non-members, for members and member organizations and for various categories of members and may establish different rates for transactions effected in different securities or through different mechanisms. Such charge shall be applicable to both the writing and the purchase of options on the Exchange and shall be payable at such times and shall be collected in such manner as the Board may determine and the proceeds thereof shall be deposited among the general funds of the Exchange.

Article VIII. Arbitration Procedure[*]

Sec. 01. Duty to Arbitrate

Members, member organizations, partners, officers and trustees of member organizations shall arbitrate all controversies arising in connection with their business between or among themselves or between them and their customers as required by any customer's agreement or, in the absence of a written agreement, if the customer chooses to arbitrate. Lessors and lessees shall arbitrate all controversies arising between them in connection with their special transfer agreement. Owners of memberships and their nominees shall arbitrate all controversies arising between them in connection with the membership and the business thereof.

[*Sections 1 to 5, together with Rules 600–609, were adopted effective June 8, 1964, to replace Sections 1 to 15 and amendments of September 4, 1962.]

Article VIII. Arbitration Procedure[*]

Sec. 02. Arbitration Forum

Arbitration shall be conducted pursuant to the NASD Code of Arbitration Procedure, except that [under the arbitration procedures of this Exchange, except as follows:

[(a) the Board of Governors may decline in any case to permit the use of the arbitration facilities of this Exchange;

(b) if all parties to the controversy are members, allied members, member firms or member corporations of the New York Stock Exchange, any party may elect to arbitrate under the arbitration procedures of that exchange.]; or

[(c) if any of the parties to a controversy is a customer, the customer may elect to arbitrate before the American Arbitration Association in the City of New York, unless the customer has expressly agreed, in writing, to submit only to the arbitration procedure of the Exchange.]

Article VIII. Arbitration Procedure[]*

Sec. 03. [Rules of Arbitration] Proceeding Instituted Prior to Combination

[The Board of Governors shall prescribe rules regarding arbitration and the conduct of arbitration proceedings, and may from time to time amend, alter or repeal any rule so adopted. These rules may, without limitation, cover the designation of an Arbitration Director and Assistant Arbitration Director, requests for arbitration, answers and counterclaims, the selection of panels and arbitrators, the arbitrability of a controversy, instructions to arbitrators, fees and costs, and such other matters as the Board shall deem necessary or appropriate.] *Any arbitration proceeding instituted with Predecessor Corporation prior to the closing date under the Transaction Agreement may continue to be conducted by means of the arbitration facilities of this Exchange and in accordance with Exchange arbitration rules and procedures in effect when such proceeding was instituted.*

Article VIII. Arbitration Procedure[]*

[Sec. 04. Arbitrators' Decision Final

[A majority of the arbitrators may determine any question and render an award. The decision of such majority shall be final and binding upon all parties to the arbitration, and there shall be no appeal therefrom to the Board of Governors. The decision and award of such majority shall be rendered to each party in writing, signed and acknowledged by the arbitrators rendering the decision.]

[Article VIII. Arbitration Procedure]*

[Sec. 05] Sec. 04. Penalties

(a) Failure to arbitrate—No change.
(b) Failure to pay award—Failure on the part of a member, member organization or owner of a membership to pay an award made pursuant to the [Exchange] arbitration [procedure] *procedures of an exchange or the NASD shall be deemed a failure to meet his or its engagements and subject him or it to suspension under Article V, Section 3.*

Article IX. The Gratuity Fund

Sec. 01. Participants Only

(a) No change.

Sec. 02. Purpose

No change.

Sec. 03. Contributions by New Participants

No change.

Sec. 04. Contributions on Death of Participant

No change.

Sec. 05. Payment of Benefits

No change.

Additions to [principal] *Principal*

No change.

Sec. 06. Beneficiaries Surviving Spouse

No change.

Surviving Spouse and Issue

No change.

Issue—No [surviving spouse] Surviving Spouse

No change.

Adopted [children] Children

No change.

No [issue] Issue—No [surviving spouse] Surviving Spouse

No change.

No [relatives] Relatives

No change.

Decision on [relationships] Relationships

No change.

Sec. 07. Income of Fund

There shall be credited annually to each Participant, in reduction of his payments under this Article, his proportion of the net income which has been received as interest on the Fund during each year, plus so much of his proportion of the principal of said Fund above two hundred fifty thousand dollars as the Trustees in their discretion may deem advisable.

In the event any extraordinary payment shall be received by the Gratuity Fund from any source, there shall be credited to each then participant, in reduction of his payments under this Article, his proportion of such payment.

Sec. 08. Restriction to Participants

No change.

Sec. 09. Management by Trustees

No change.

Sec. 10. Classification and Selection of Trustees

The Trustees of the [said] *Gratuity Fund* shall be [nominated and elected in the same manner, and at the same time, as governors of] *appointed by The Amex Corporation, based on the vote of the regular and options principal members of the Exchange.* The [said] Trustees shall be divided into three classes, each consisting of two Trustees. [Except as provided in Article XIV, said] Trustees shall hold office for three years from the date of their election and until Trustees are chosen and qualified in their stead.

Sec. 11. Vacancy Among Trustees

In case of a vacancy among the Trustees, the [Board of Governors] *board of The Amex Corporation shall appoint a person qualified to serve as Trustee until the next meeting at which the Trustees to be appointed are selected* [at its next regular meeting thereafter, shall fill the vacancy, pending the next annual election of the Exchange].

Sec. 12. Investments

No change.

Sec. 13. Officers of Fund

No change.

Sec. 14. Meetings of Trustees

No change.

Sec. 15. Report on Condition

No change.

Sec. 16. Management

It shall be the duty of the Secretary of the Fund to keep regular minutes of the proceedings of the Trustees, and to give notice of meetings.

Deposit of [funds:] *Funds*; Custody of [securities] *Securities*; Books

No change.

Sec. 17. Payments to Minors

No change.

Sec. 18. Beneficiary Not Located

No change.

Sec. 19. Expenses

No change.

Sec. 20. Vacancy Among Officers

No change.

Sec. 21. Supervision of Finances

No change.

Annual [audit] Audit

No change.

Sec. 22. Discipline of Trustees

No change.

Sec. 23. Transition Provisions

No change.

Article X. Clearing Organizations

Sec. 01. Clearing Organizations

No change.

Sec. 02. Settlement of Exchange Contracts

No change.

Sec. 03. Exchange Contracts Include

No change.

Article XI. Miscellaneous Provisions

Sec. 01. Rules of Exchange Included in Contract Terms

No change.

Sec. 02. Securities Admitted by New York Stock Exchange

Rescinded effective August 19, 1976.

Sec. 03. Keeping of Books

No change.

Sec. 04. [and Sec. 05.] Controlled Corporations and Associations

Broker for [securities corporation] *Securities Corporation*

No change.

Participation in [corporate commissions] *Corporate Commissions*

No change.

Corporate [use] *Use of [member office;] Member Office*; Corporate [use] *Use of [member name] Member Name*

No change.

Responsibility for [corporate subsidiary;] *Corporate Subsidiary*; Duty to [produce books] *Produce Books*

No change.

Sec. 05. Options

No employee of the Exchange and no employee of any corporation in which the Exchange owns the majority of the capital stock may purchase or sell for his own account or for any account in which he has a direct or indirect interest any option which entitles the purchaser to purchase or sell any security which is the subject of any option contract admitted to dealings on the Exchange; *provided, however, that this prohibition shall not extend to a standardized option issued by The Options Clearing Corporation unless such option is on an underlying security which is listed on the Exchange.*

Sec. 06. Rule of Construction

This Constitution shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the principles of conflict of laws.

Article XII. Emergency Committee or Extraordinary Market Conditions

Current Article XII is deleted in its entirety.

Sec. 01. Authority to Take Action Under Emergency or

Extraordinary Market Conditions

The Board of Governors, or such person or persons as may be designated by the Board, in the event of an emergency or extraordinary market conditions, shall have the authority to take any action regarding the trading of any or all securities on the Exchange and the operation of any Exchange trading system or facility and the participation in any such system or facility by any or all persons, if in the opinion of the Board or the person or persons hereby designated, such action is necessary or appropriate for the protection of investors or the public interest or for the orderly operation of the Exchange or any Exchange system or facility.

Article XIII. Amendments To The Constitution

Sec. 01. Procedure

The provisions of this Constitution may be amended or repealed, and new provisions may be adopted, only [by the regular members of] *if approved by a majority of governors and by the holder of the Class B Interest in the Exchange in accordance with the procedure specified in this Article. The Board of Governors and the holder of the Class B Interest shall not approve any change to the Constitution that requires the consent of The Amex Corporation, the Amex Committee, or both under the terms of the Transaction Agreement without first obtaining such consent. The elimination of the foregoing sentence or any amendment thereto that would limit its effect shall also require the consent of The Amex Corporation.*

Article XIII. Amendments To The Constitution

Sec. 02. Adoption by Board

Amendments to the Constitution may be proposed by one or more members of the Board of Governors or by the signed petition of not less than 50 regular and options principal members of the Exchange setting forth the proposed amendment. Any such petition shall be filed with the Secretary of the Exchange who shall present it to the Board of Governors at its next regular meeting or within 30 days after the date such petition is filed.

Every proposed amendment to the Constitution must be presented in writing to the Board of Governors at a regular meeting or at a special meeting expressly called for the purpose of receiving it. The Secretary of the Exchange shall promptly cause a copy of every proposed amendment to be transmitted to each governor. Action on any proposed amendment shall be taken or postponed at a regular meeting of the Board of Governors or at a special meeting expressly called for the purpose of acting thereon. The Board of Governors may make such changes in an amendment so proposed as it may deem necessary or appropriate in order to carry out the intention of such proposed amendment or in order to make it conform to other provisions of the Constitution or any applicable Federal or State Law. *Subject to the requirements of Section 1 of this Article XIII, a proposed amendment shall be adopted if it is approved by the affirmative vote of the majority of governors then in office and by the holder of the Class B Interest in the Exchange.*

Article XIII. Amendments To The Constitution

Sec. 03. [Proposal of Amendments] Voting by Membership

[Amendments] *In the event that a proposed amendment to the Constitution cannot be made without the consent of The Amex Corporation, based on the vote of regular and options principal [may be proposed in the following manner:*

[a] (a) By one or more] members of the Exchange, [Board of Governors: Any such proposed amendment when approved by the affirmative vote of a majority of the Governors then in office shall be posted on the bulletin board and submitted to the regular members for vote thereon at a special meeting of the regular members of the Exchange called for the purpose as hereinafter provided in Section 4 of this Article XIII; or

[b] (b) By the signed petition of not less than fifty regular members of the Exchange setting forth in the proposed amendment and filing the same with] the Secretary of the Exchange [who shall present it to the Board of Governors at its next regular] *shall request that the Amex Corporation hold a special meeting [or within 30 days after the date such petition is filed. The Board may direct that such amendment be posted on the bulletin board and submitted, with or without the approval of the Board, to the regular members for vote thereon as hereinafter provided in Section 4 of this*

Article XIII; provided, however, that in any case the Board of Governors shall, within eight weeks after] for the purpose of considering such proposed amendment. *The Secretary shall furnish a copy of the proposed amendment with such request.*

[has been presented to the Board, cause it to be posted on the bulletin board and submitted to the regular members for a vote as hereinafter provided.

Article XIII. Amendments To The Constitution

Sec. 04. [Voting by] Adoption of Amendments Requiring a Membership Vote

In the event that [Promptly after the posting of] a proposed amendment[, notice of a special meeting] to the Constitution cannot be made without the consent of The Amex Corporation, based on the vote of the regular and options principal members of the Exchange [called pursuant to this Article shall be given by the Secretary of the Exchange to each regular member as provided in Section 8(e) of Article III. With the notice the Secretary shall furnish a copy of], the Predecessor Corporation shall grant such consent to the proposed amendment [and a form of proxy designating not less than three] if it is authorized to do so by a majority of the regular [or allied] and options principal members [of the Exchange selected by the Board of Governors to serve as a Proxy Committee authorized to act for regular members at] voting as a single class at a duly convened meeting at which a quorum is present. If a quorum shall not be present, in person or by proxy, at the place and time fixed for the special meeting[. The proxy shall provide, by boxes or otherwise, means by which a regular member may specify that his vote be cast for or against] called to consider the proposed amendment[. The proxy shall further provide as to how it will be voted if not so specified. All proxies to the Proxy Committee shall, unless revoked, be voted as specified or otherwise provided thereon, and the votes thereunder may be cast by any one or more members of the Proxy Committee present], the meeting shall be adjourned to reconvene at the same time and place on the day two weeks thereafter or, if the Exchange is not open for business on that day, on the next succeeding business day. If a proposed amendment is not approved at the special meeting at the time fixed therefore or at such adjourned time, such amendment may not again be submitted to the membership for a period of ninety days[. Any member except one who has executed an irrevocable proxy to a member organization as provided in Section 8(d) of Article III, may attend and vote in person or may designate one or more regular or allied members of the Exchange other than the members of the Proxy Committee to act for him by proxy at the special meeting.

Article XIII. Amendments To The Constitution

Sec. 05[. Adoption of Amendments

[Except as otherwise required by law or by this Constitution, a proposed amendment shall be adopted if it is authorized by a majority of the votes cast at the special

meeting at which it is submitted, provided that a quorum is present, in person or by proxy. If a quorum shall not be present, in person or by proxy, at the place and time fixed for a special meeting of the regular members called pursuant to this Article, the meeting shall be adjourned to reconvene at the same time and place on the day two weeks thereafter or, if the Exchange is not open for business on that day, on the next succeeding business day. If a quorum shall not then be assembled, the meeting shall be dissolved and the proposed amendment shall not become effective. If a proposed amendment is not approved at the special meeting at the time fixed therefore or at such adjourned time, such amendment may not again be submitted to the regular membership for a period of ninety days.

[Sec. 06]. Provisions for Families of Deceased Members

Notwithstanding the foregoing provisions of this Article, no amendment of Article IX shall ever be made which will impair, in any essential particular, the obligation of each regular member to contribute, not less than the sum of twenty-five dollars to the provision for the families of deceased members, unless such amendment shall be authorized by a unanimous vote, or by the written request, of all of the regular members of the Exchange.

Article XIV. Reserved [Implementation of Reclassification Amendments]

Current Article XIV is deleted in its entirety.

EXHIBIT B—AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

(Text in brackets indicates material to be deleted; italicized text indicates material to be added.)

Rule 345. Determinations Involving Employees and Prospective Employees

(a) through (d). No change.

(e) Upon the answer being filed, or if the person charged shall refuse or neglect to make answer as hereinbefore required, the Disciplinary Panel shall, at a hearing called for that purpose, proceed to consider the charge or charges. The Exchange shall cause copies of the charge or charges and of the answer, if any, and of any documents submitted in support thereof by the person charged, to be mailed or otherwise delivered to each member of the Disciplinary Panel at least five days before such hearing. Notice of such hearing shall be sent to the person charged; he shall be entitled to be present personally at the hearing, and shall be permitted to examine and cross-examine all witnesses produced at the hearing and also to present such testimony, defense or explanation as may be deemed responsive to the charge or charges. Any witnesses produced by the person charged shall be subject to cross-examination. After hearing all witnesses produced at the hearing and after hearing the person charged, the Disciplinary Panel shall by a majority vote determine whether or not the employee or prospective employee is guilty of the offense or offenses charged. If it determines that the

person charged is guilty, the Disciplinary Panel shall by a majority vote impose the penalty or prescribe the action to be taken by the Exchange in accordance with paragraph (a) or (b) of this rule. Any such determination shall be supported by a written statement setting forth (i) any act or practice in which such employee or prospective employee is found to have engaged or which such employee or prospective employee has been found to have omitted, (ii) the specific provision of the Securities Exchange Act of 1934, as amended, the rules and regulations thereunder, the Constitution or rules, procedures or policies of the Exchange, which any such act, practice or omission to act is deemed to violate and (iii) the penalty imposed or other action prescribed and the reasons therefore. Such written statement shall be served upon the person charged in the manner hereinbefore provided, and a copy thereof shall be sent to each member of the [Board of Governors] *Amex Adjudicatory Council*. The determination of the Disciplinary Panel and any penalty or other action prescribed shall become final and conclusive twenty days after notification thereof to the person charged, provided, however, that if a request for review of such determination, or of any penalty or other action prescribed by the Disciplinary Panel, is filed in writing with the Secretary of the Exchange as provided in paragraph (e) of this rule, the penalty or other action prescribed by the Disciplinary Panel shall be stayed pending the result of such review.

(f) Any person determined to be guilty of a charge or charges before an Exchange Disciplinary Panel pursuant to this rule may obtain a review of such determination or of any penalty or other action prescribed by the Disciplinary Panel in accordance with paragraph (a) or (b) of this rule, or of both the determination and such penalty or other action. Upon the request of any [four] member[s] of the [Board of Governors] *Amex Adjudicatory Council*, any determination by a Disciplinary Panel pursuant to this rule or any penalty or other action prescribed by such Disciplinary Panel, or both, shall be subject to review as hereinafter provided. A request for review of such determination, penalty or other action shall be made in writing and filed with the Secretary of the Exchange within twenty days after notification of the determination and penalty, if any, is served upon the person charged. The review of any disciplinary proceeding as herein provided [may] *shall* be conducted by the *Amex Adjudicatory Council* [Board of Governors, or in its discretion may be delegated to a committee of governors appointed by the Chairman with the approval of the Board]. In connection with any such review, the *Amex Adjudicatory Council* [Board or the review committee, as the case may be,] may affirm any determination by the Disciplinary Panel or sustain any penalty or other action prescribed, or both, may modify or reverse any such determination, or may decrease or eliminate any penalty or other action prescribed in accordance with paragraph (a) or (b) of this rule, or impose any lesser penalty or prescribe any lesser action permitted under paragraph (a) or (b) of this rule, as it deems appropriate; or if the

Amex Adjudicatory Council [Board or such review committee] shall determine that the Disciplinary Panel has not adequately considered all of the matters which should have been considered in connection with the charge or charges, or has improperly applied or interpreted the Constitution, rules, requirements and policies of the Exchange, or has prescribed action or has imposed a penalty or penalties which the *Amex Adjudicatory Council* [Board or such review committee] determines to be inadequate in light of all the circumstances, the *Amex Adjudicatory Council* [Board or such review committee] may remand the matter to the Disciplinary Panel for further consideration consistent with such determination. Upon such remand, the Disciplinary Panel shall conduct a further hearing in accordance with the provisions of this rule and may as a result thereof modify, reverse or reaffirm its previous determination or prescribe any action or impose any penalty permitted under paragraph (a) or (b) of this rule regardless of whether such action or penalty shall be greater than the action prescribed or penalty imposed as a result of the original hearing. Any determination, action prescribed or penalty imposed by the Disciplinary Panel as a result of a remand from the *Amex Adjudicatory Council* [Board or a review committee, as the case may be,] shall be subject to further review upon request as hereinabove provided. [If, upon review, the matter is not remanded to the Disciplinary Panel, the determination and the penalty or other action prescribed, if any, by the Board or the review committee, as the case may be, shall be final and conclusive.]

The Amex Adjudicatory Council shall transmit its proposed written decision to each member of the Board of Governors. The Board may call the proceeding for review pursuant to paragraph (g) of this rule. If the Board does not call the proceeding for review, the proposed written decision of the Amex Adjudicatory Council shall become final. Unless the Amex Adjudicatory Council remands the proceeding, the decision shall constitute the final action of the Exchange.

(g) Upon the request of any four of its members, the Board of Governors may review a proposed written decision of the Amex Adjudicatory Council. Such a request for review shall be made not later than the next meeting of the Board of Governors that is at least 15 days after that date on which the proposed written decision of the Amex Adjudicatory Council is transmitted to the Board. By a unanimous vote of the Board of Governors, the Board may shorten the period to less than 15 days. By an affirmative vote of the majority of the Board then in office, the Board may, during the 15 day period, vote to extend the period to more than 15 days. The review by the Board of Governors shall occur not later than the next regularly scheduled meeting of the Board following the request for review. Ten Governors shall be required to constitute a quorum for any meeting of the Board at which the Board shall review a disciplinary proceeding as herein provided, and any action taken pursuant to the vote of a majority of the Governors present at such meeting shall be deemed to be the action of the Board.

After review, the Board of Governors may affirm, modify, or reverse the proposed written decision of the Amex Adjudicatory Council. Alternatively, the Board of Governors may remand the proceeding with instructions. The decision of the Board of Governors shall constitute the final action of the Exchange, unless the Board remands the proceedings.

(h)[(g)] If any employee or prospective employee of a member or member organization is suspended or expelled from any other securities exchange or any national securities association, or is suspended or barred from being associated with any member of such exchange or association, or is suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities, the Exchange may, in view of such suspension, expulsion or bar, suspend or withdraw its approval of, or disapprove, his employment by a member or member organization, but no such suspension imposed by the Exchange shall commence before or expire after the suspension imposed by such other exchange, association or agency, and no such withdrawal of approval and no such disapproval shall be imposed by the Exchange unless such employee or prospective employee has been expelled or barred by such other exchange, association or agency. Nothing in this paragraph (h) [(f)] shall preclude any proceeding against any employee or prospective employee under the foregoing provisions of this Rule 345. In any proceeding under this paragraph (h) [(f)], the method of procedure required by paragraphs (c) and (d) of this rule shall not apply, but the employee or prospective employee shall be given not less than ten days' notice in writing of a hearing before an Exchange Disciplinary Panel to determine whether or not the Exchange shall suspend or withdraw its approval of, or disapprove, as the case may be, his employment by a member or member organization, as provided herein. At such hearing, the employee or prospective employee shall be afforded an opportunity to explain why it would be inappropriate for the Exchange to accept the finding of such other exchange, association or agency or to suspend or withdraw its approval of, or disapprove, his employment, notwithstanding his suspension, expulsion or bar by such other exchange, association or agency. The Disciplinary Panel shall thereupon on behalf of the Exchange determine the matter by a majority vote. In the event that the Disciplinary Panel determines that the Exchange should not accept the finding of guilt by such other exchange, association or agency, it may order a proceeding under any other paragraph of this rule. In the event that the employee or prospective employee fails or refuses to appear at such hearing, the Disciplinary Panel may nevertheless determine the matter and suspend or withdraw Exchange approval of, or disapprove, his employment or prospective employment as provided herein. If the Disciplinary Panel determines to accept the finding by such other exchange, association or agency and to suspend or withdraw its approval of, or disapprove, the employment of such employee or prospective

employee by a member or member organization such determination shall be supported by a written statement setting forth the specific grounds for such action. Such written statement shall be served upon the employee or prospective employee in the manner hereinbefore provided by paragraph (c) of this rule and a copy thereof shall be sent to each member of the Amex Adjudicatory Council [Board of Governors]. Any action by an Exchange Disciplinary Panel pursuant to this paragraph (h) [(f)] shall be subject to review in accordance with the procedures specified in paragraphs (f) and (g) [(e)] of this rule. In the event no request for review is filed within twenty days after the employee or prospective employee is notified of the determination of the Disciplinary Panel, such determination shall become final and conclusive. Notwithstanding the foregoing, the employee or prospective employee may, nevertheless, consent to the penalty that the Exchange suspend or withdraw its approval of, or disapprove, his employment or prospective employment by a member or member organization solely by reason of the imposition of such penalty by such other exchange, association or agency, and without either the separate determination of an Exchange Disciplinary Panel as provided above in this paragraph (h) [(f)] or the procedure provided for in the foregoing paragraphs of this rule. Such consent shall be in writing, signed by the employee or prospective employee, and shall be delivered to the Exchange not later than two business days after the Exchange gives notice in writing to him that it intends to proceed under Rule 345(h) [(f)]. The consent shall take effect immediately upon approval by the Exchange.

(i)[(h)] In accordance with rules adopted by the Board of Governors, the Exchange may publicly disclose its disapproval or suspension or withdrawal of approval of the employment of any employee or prospective employee of a member or member organization and it may publicly disclose any fine, censure or other determination, provided, however, that no such disclosure shall be permitted until there has been a final determination of the matter.

(j)[(i)] Unless otherwise directed by the Amex Adjudicatory Council [Board of Governors], a copy of any accusation under paragraph (c) of this rule or a copy of any notice of hearing under paragraph (h) [(f)] of this rule served on an employee or a prospective employee of a member or member organization shall be furnished to his employer or prospective employer and a representative of the employer or prospective employer may be present at the hearing of the matter.

(k)[(j)] In lieu of the procedures set forth in paragraph (d) of this rule, an Exchange Disciplinary Panel, selected in accordance with the provisions of Section[s] 1(b)[(1) and 1(b)(2)] of Article V of the Constitution, at a hearing called for that purpose may determine whether an employee or prospective employee of a member or member organization is guilty of having committed an offense or offenses on the basis of a written stipulation of facts and consent to a specified penalty entered into between

such employee or prospective employee and any officer of the Exchange, and may fix and impose the penalty or prescribe such other action to be taken by the Exchange in accordance with paragraph (a) or (b) of this rule as shall be agreed to in such stipulation and consent, or impose any lesser action permitted under paragraph (a) or (b) of this rule. A written notice of the result shall be served upon the employee or prospective employee in the manner provided in paragraph (c) of this rule and a copy thereof shall be sent to each member of the Amex Adjudicatory Council [Board of Governors]. The determination of the Disciplinary Panel and any penalty or other action prescribed shall become final and conclusive ten days after notification thereof to the employee or prospective employee, provided, however, that if a request for review of such determination or, of any penalty or other action prescribed by the Disciplinary Panel, is filed as hereinafter provided, the penalty or other action prescribed by the Disciplinary Panel shall be stayed pending the result of such review. If the Disciplinary Panel rejects the stipulation and consent to a specified penalty, the matter shall proceed as if the stipulation and consent had not been entered into, and such stipulation and consent shall be disregarded in any subsequent proceeding. A written notice of such rejection by the Disciplinary Panel shall be served upon the employee or prospective employee in the manner provided in paragraph (c) of this rule.

Upon the request of any [four] member[s] of the Amex Adjudicatory Council [Board of Governors], the Amex Adjudicatory Council [Board] shall review the determination of, or the penalty or other action prescribed by, a Disciplinary Panel in connection with a written stipulation of facts and consent to a specified penalty. A request for review by the Amex Adjudicatory Council [Board] of such determination, penalty or other action shall be made in writing and filed with the Secretary of the Exchange within ten days after notification of the determination and penalty, if any, is served upon the employee or prospective employee. Upon review, the Amex Adjudicatory Council [Board] may fix and impose the penalty or prescribe such action to be taken by the Exchange in accordance with paragraph (a) or (b) of this rule as shall have been agreed to in such stipulation and consent, impose any lesser penalty or prescribe any lesser action permitted under paragraph (a) or (b) of this rule, or reject each stipulation and consent, as it deems appropriate. The quorum and vote required for such action by the Amex Adjudicatory Council [Board] shall be the quorum and vote provided in Section 6(h) of Article II [Section 1(b)(5) of Article V] of the Constitution.

(k) *renumbered as (l)*. No other change.

* * * * *

D. Office Rules

Minor Rule Violation Fine Systems

Rule 590. Minor Rule Violation Fine Systems

Part 1 General Rule Violations

(a) & (b). No change.

(c) If the person against whom a fine is imposed pays the fine, such payment will be deemed to be a waiver of such person's right to a hearing before an Exchange Disciplinary Panel and to an appeal to the *Amex Adjudicatory Council* [Board of Governors of the Exchange].

(d) through (h). No change.

Part 2 Floor Decorum Violations

(a) through (c). No change.

(d) If the person against whom a fine is imposed pays the fine, such payment will be deemed to be a waiver of such person's right to a hearing before an Exchange Disciplinary Panel and to an appeal to the *Amex Adjudicatory Council* [Board of Governors of the Exchange].

(e) through (g). No change.

Part 3 Reporting Violations

(a) & (b). No change.

(c) If the person against whom a fine is imposed pays the fine, such payment will be deemed to be a waiver of such person's right to a hearing before an Exchange Disciplinary Panel and to an appeal to the *Amex Adjudicatory Council* [Board of Governors of the Exchange].

(d) through (g). No change.

* * * Commentary. No change.

* * * * *

E. Arbitration

Arbitration Rules

Rule 600. Arbitration

Commentary .01: Amex Rules 600 through 624 only apply to arbitrations commenced prior to (insert date of Closing) and are otherwise of no force or effect. Article VIII, Sec. 2 of the Exchange Constitution provides that arbitration shall be conducted pursuant to the NASD Code of Arbitration Procedure, except that, if all parties to the controversy are members, allied members or member corporations of the New York Stock Exchange, any party may elect to arbitrate under the arbitration procedures of that exchange. Any violation of the NASD Code of Arbitration Procedure by members or member organizations arbitrating thereunder would be deemed a violation of Exchange rules and subject the violator to Exchange disciplinary procedures.

Rules 600 through 624. No change.

* * * * *

K. Exchange Disciplinary Proceedings

Rule 8. Record of Proceedings

(a). No change.

(b) Where a meeting of a Disciplinary Panel has been convened pursuant to Article V,

Section 2 of the Exchange Constitution or Exchange Rule 345(k) [(i)] for the purpose of considering a written stipulation of facts and consent to a specified penalty, a record may be made by tape recording. Records of such meetings need not be transcribed except upon the request of a party to the proceeding, the Exchange or the Panel, or upon a request by the *Amex Adjudicatory Council* [Board of Governors] for review of the determination of the Panel.

Rule 9. Requests for Review

A request by a party for review of a determination by a Disciplinary Panel shall state the specific decisions of the Panel with respect to which objection is made, and any decision of the Panel which is not expressly objected to in such request shall be deemed accepted by the party making the request. Upon the filing by a party of a request for review of a determination by a Disciplinary Panel, such party shall have twenty days thereafter in which to file with the Secretary of the Exchange any brief and supporting documents for submission to the *Amex Adjudicatory Council* [Board of Governors or review committee, as the case may be]. The representative of the Exchange shall have an additional twenty days thereafter in which to file an answering brief and supporting documents in connection with such review. If a request for review of a determination by a Disciplinary Panel is initiated by members of the *Amex Adjudicatory Council* [Board of Governors], all briefs and supporting documents to be submitted by the parties must be filed with the Secretary of the Exchange within twenty days after notice of such request is served upon them. The *Amex Adjudicatory Council* [Board of Governors or the review committee, as the case may be.] shall determine in each instance whether it will hear oral argument in connection with any such review.

* * * * *

Amex Company Guide Listing Standards—Policies—Requirements

Part 10. Suspension and Delisting—Suspension and Delisting Procedures

Sec. 1010. Delisting Procedures

Whenever the Exchange determines that it is appropriate to consider removing a security from listing (or from unlisted trading) for other than routine reasons (such as redemptions, maturities, etc.), it will follow, insofar as practicable, the following procedures:

(a) No change.

(b) If, after such conference, the Exchange determines that the security should be

removed, it will notify the company in writing, indicating the basis for such decision and the specific delisting policies and guidelines under which action will be taken. Such notice will also inform the company that it may appeal to the Board of Governors of the Exchange, *or such committee or committees as the Board may authorize, and request a hearing.*

(c) through (f) No change.

(g) After the conclusion of the company's presentation, the committee will determine whether or not to recommend to the Board of Governors that the security be removed from listing (or unlisted trading). If the committee determines to recommend removal of the security from listing (or unlisted trading), such recommendation shall be sent to the Board of Governors for its consideration. The Board of Governors may authorize a *review committee* [the Executive Committee] to consider any or all appeals from decisions of the Exchange, and in such case the decision of the *review committee* [Executive Committee] with respect thereto shall be final and conclusive. A governor who serves on the committee or is present at the hearing will not as a result thereof be prohibited from voting on the recommendation when it is considered by the Board of Governors or by the *review committee* [Executive Committee], as the case may be.

(h) If the Board of Governors or the *review committee* [Executive Committee], as the case may be, shall approve the recommendation of the committee which has heard the matter, an application shall be submitted by the Exchange to the SEC to strike the security from listing (or unlisted trading) and a copy of such application shall be furnished to the issuer in accordance with Section 12 of the Securities Exchange Act of 1934 and the rules promulgated thereunder.

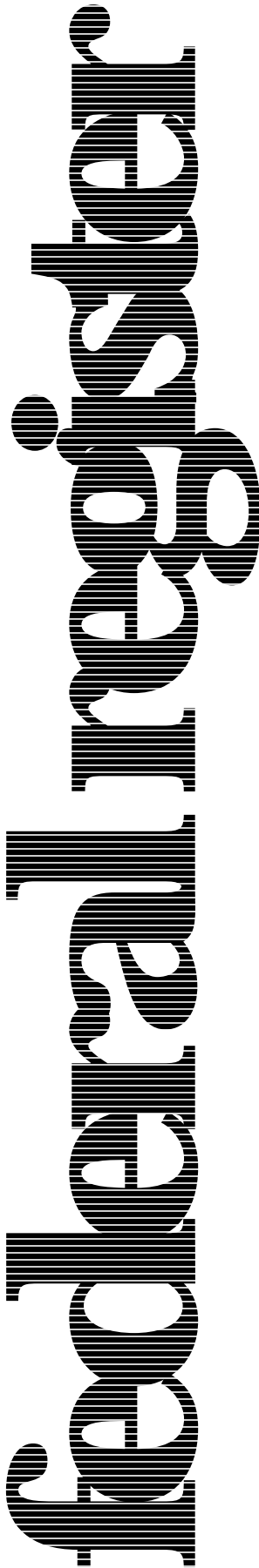
The action required to be taken by the Exchange to strike a security from listing and registration for routine reasons, such as redemption, maturity and retirement, is set forth in Rule 12d2-2(a) promulgated under the Securities Exchange Act.

The relevant portions of the Section and Rules under such Act pertaining to the suspension, removal or withdrawal of securities for all other reasons, and the requirements of the Exchange (Rule 18) applicable in certain cases, are summarized below:

(a) through the end of Section 1010. No change.

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Thursday
September 17, 1998

Part III

**Securities and
Exchange
Commission**

**Self-Regulatory Organizations: Proposed
Rule Change Filing and American Stock
Exchange, Inc. Amendment No. 1 Thereto
Relating to the Combination of American
Stock Exchange, Inc. and National
Association of Securities Dealers, Inc.
Changes; Notice**

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40426; File No. SR-Amex-98-32]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange, Inc. Relating to Changes to the Combination of the American Stock Exchange, Inc. and the National Association of Securities Dealers, Inc.

September 10, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 3, 1998, the American Stock Exchange, Inc. ("Amex") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. Amex filed an amendment to the proposed rule change on September 8, 1998.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex is proposing certain changes to its Constitution and Rules that will become effective at the time they become the Constitution and Rules of the American Stock Exchange LLC (referred to herein as "New Amex" or "Exchange"). New Amex is a limited liability company that will assume the functions and succeed to the exchange registration of the Amex upon closing of the transaction among the Amex, the National Association of Securities Dealers, Inc. ("NASD") and other parties specified in the Transaction Agreement, dated as of May 8, 1998. The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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, including the proposed amendments to the Constitution and various rules attached here as Exhibits A and B, may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to implement changes to the current Constitution and Rules of the Amex that will become effective at the time they become the Constitution and Rules of New Amex at the time of the closing of the transaction ("the Closing") among the Amex, the NASD and other parties specified in the Transaction Agreement, dated as of May 8, 1998, whereby the Amex will become a subsidiary of the NASD.⁴ By means of the proposed transaction, the NASD and the Amex desire to effect a combination to create a new more electronic, centralized floor based specialist auction market for equities and a more technologically competitive and efficient centralized market for standardized options.

On March 18, 1998, the NASD and the Amex jointly announced that the NASD Board of Governors and the Amex Board of Governors approved an agreement in principle to bring the Amex into the NASD family of companies, subject to finalization of a definitive agreement and approval by Amex members. On April 8, 1998, the Amex Board approved the terms of that definitive agreement, which was signed by the NASD and the Amex as of May 8, 1998. In connection with Amex member approval of the agreement, the Amex sent to all 864

Amex Regular Members and Options Principal Members (referred to collectively as "Members") an Information Memorandum, dated May 14, 1998, describing the transaction in detail. Attached as exhibits to the Information Memorandum were the Restated Certificate of Incorporation and the new By-Laws of Amex Corp. (as hereinafter defined), and the Constitution of New Amex. Members also were provided with Transaction Documents relating to the transaction. These included, among other items, the Transaction Agreement and exhibits thereto, including the Limited Liability Company Agreement of New Amex ("LLC Agreement") and the Technology Transfer and Development Agreement. At a Special Meeting of Members on June 25, 1998, the Members approved the transaction by a vote of 622 to 206. On August 6, 1998, the NASD Board of Governors authorized filing of a rule change with the Commission to amend NASD By-Laws to provide that the NASD Board will include the Chief Executive Officer of New Amex and one Floor Governor from the New Amex Board, as required by the Transaction Agreement. Final action with respect to the proposed amendments to the NASD By-Laws will not occur until a vote of the NASD membership is completed. The proposed amendments have been filed pursuant to Rule 19b-4 under the Act (SR-NASD-98-56), and were published for member vote on August 7, 1998, in NASD Notice to Members 98-64. The last day for member vote is September 14, 1998.

Following the Closing, New Amex will be a national securities exchange registered under Section 6 of the Exchange Act operating a separate floor-based specialist auction market with its own members and listed securities.⁵ At the Closing, New Amex will succeed to the exchange registration of Amex, and New Amex will promptly file necessary amendments to the Exchange's registration as a national securities exchange on Form 1-A, pursuant to Rule 6a-1 under the Act. Current Amex rules will become the rules of New Amex on the date of the Closing, amended only as described herein. Any amendments to such rules proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter to Michael Walinskas, Deputy Associate Director, Commission, from William Floyd-Jones, Jr., Assistant General Counsel, Amex, dated September 4, 1998 ("Amendment No. 1"). Amendment No. 1 adds a definition of "NASD Nominating Committee" to the Constitution. It also corrects a change to Amex Rule 345 by clarifying that any one member of the Amex Adjudicatory Committee ("AAC") may require a review of a Disciplinary Panel Decision by the full AAC. (Originally, the change to Amex Rule 345 erroneously provided that four members of the AAC were needed to call a disciplinary matter for review.)

⁴ In addition to the NASD and Amex, parties to the Transaction Agreement include NASD Market Holding Company, a wholly-owned subsidiary of the NASD; New Amex LLC, a Delaware Limited Liability Company; and the following subsidiaries of the Amex: American Stock Exchange Clearing Corporation; American Stock Exchange Realty Associates, Inc.; Amex Commodities Corporation; and PDR Services Corporation.

⁵ The Information Memorandum referred to above notes that "[t]he NASD, as the parent company of New Amex, will bear ultimate responsibility to ensure that New Amex meets its statutory obligations and that the necessary and appropriate resources are available to New Amex's compliance department to meet the evolving demands of operating a regulatory and compliance program in an advanced marketplace." (Information Memorandum at p. 40.) The NASD has undertaken to make its own rule filing with the Commission to this effect pursuant to Rule 19b-4.

after the Closing will be filed by New Amex pursuant to Rule 19b-4. New Amex will also succeed to any proposed rule change filed with the Commission by Amex before the Closing but not approved by the Commission by that time, and when ultimately approved such proposal will change the rules of New Amex.

For tax planning and other technical reasons, Amex will continue to exist as a corporate entity, and after the Closing its name will be changed to The Amex Corporation (hereinafter, "Amex Corp."). The right to trade on the Exchange will continue to be embodied in Memberships which are in fact interests in Amex Corp., although New Amex will have the authority and responsibility to approve transfers of such Memberships and changes in the "approved persons" of a Member or Member Organization, and there is proposed herein no change in the rules and policies applicable to that process.⁶

Generally, after the Closing, all the voting power in New Amex concerning the operation of the Exchange will be vested in the NASD. However, under the Transaction Agreement there are certain actions affecting the Members that require their consent, including the creation and issuance of new memberships, and material market structure changes for certain periods of time, and the principal function of Amex Corp. will be to implement the votes necessary to obtain these consents. Amex Corp. will have its own Board, which will be comprised of the Floor Governors on the New Amex Board. (The Board structure of New Amex is

discussed below.) After the Closing, Regular and Options Principal Members will have equal voting rights and will vote on matters together as a single class. Amex Corp. will have an otherwise nonvoting interest in New Amex with certain preferential liquidation rights, and the NASD will have a voting interest in New Amex. For tax consolidation reasons, the NASD will own its interest in New Amex and the Nasdaq Stock Market through NASD Market Holding Company, a wholly-owned subsidiary of the NASD.

The LLC Agreement will establish Amex Corp.'s and the NASD's rights and obligations as owners of New Amex and vest the New Amex Board with its management powers. The NASD may not amend the LLC Agreement except with the consent of Amex Corp., which may grant such consent with the approval of its Board, except for any amendment which would constitute a change otherwise requiring consent of Amex Corp. (as authorized by the Members) under the Transaction Documents.

The Information Memorandum and Transaction Documents also describe the New Equity Market Structure which will be introduced on the Exchange after the Closing, initially as a pilot program, and which will provide a system for the automatic execution of electronically delivered orders as well as a new electronic order book. The New Equity Market Structure is not the subject of this filing, but, instead, will be the subject of one or more additional filings pursuant to Rule 19b-4, which will be submitted to the Commission as soon as practicable. Until any such changes are approved by the Commission, the Exchange market structure for equities will remain unchanged and orders will be entered and executed as they are currently.

New Amex Constitution and Rules. New Amex's Constitution will include amendments to the current Amex Constitution, which in large part reflect changes provided for under the Transaction Agreement. Otherwise, New Amex's Constitution and Rules will be essentially the same as the current Amex Constitution and Rules. The following is a summary of amendments made to the current Amex Constitution and Rules. Non-substantive and stylistic changes are not discussed. The text of the New Amex Constitution is attached hereto as Exhibit A. Amendments to the text of various Amex rules are attached hereto as Exhibit B.

Article I—Title—Purposes—Definitions. Section .01 (Title) would replace "Corporation" with "Company" and "American Stock Exchange, Inc."

with "American Stock Exchange LLC" to reflect the new legal status of the Exchange as a Limited Liability Company.

Section .02 (Purposes) would delete references to the Exchange functioning as a "board of trade" under current Section .02(b)⁷ and would provide under new Section .02(c) that the Exchange conducts its activities under Delaware Limited Liability Law.

Section .03(c) defines "Regular Member" as a person holding a regular trading right issued by Amex Corp. The term "regular trading right" is defined as the right to transact business on the Floor of the Exchange generally.

Section .03(d), which replaces current Article IV, Sec. 1(b)(4) of the Exchange Constitution, similarly defines the term "options principal member" as a person holding an options principal trading right issued by Amex Corp. Such right means "the right to execute on the Floor of the Exchange transactions in options and other derivative products for the right holder's own account and to give proprietary orders in such securities to Regular Members for execution. The term "derivative product" remains substantially the same as the definition in current Article IV, Sec. 1(b)(4).

Paragraphs (s) and (r) define the terms "NASD" and "Nasdaq," respectively. Paragraph (u) defines the "Transaction Agreement," which is referenced earlier herein. Paragraph (v) defines "Predecessor Corporation" as the American Stock Exchange, Inc. prior to the date of the Transaction Agreement, and The Amex Corporation after that date. Paragraph (w) defines "Amex Committee" discussed below. Paragraph (x) defines the term "Class A Interest" as the limited liability company interest in the Exchange initially issued to Predecessor Corporation. Paragraph (y) defines "Class B Interest" as the limited liability company interest in the Exchange initially issued to NASD Market Holding Company, a wholly-owned subsidiary of the NASD. "Class A Interest" and "Class B Interest" are further referenced in Article II, discussed below. Paragraph (z) defines "The Amex Corporation" as the New York Not-for-Profit Corporation that holds the Class A Interest in the Exchange. Paragraph (aa) defines the term "NASD Nominating Committee" as the National Nominating Committee appointed pursuant to Article VII Section 9 of the NASD By-Laws.

Article II ("Government and Administration"). Article II of the New

⁶The Exchange scrutinizes and must approve not only those seeking to be active on the Exchange trading floor, but also those who seek only to own a Membership which will then be leased to another. Article I, Section 3(g) of the Exchange Constitution defines an "approved person" to include, *inter alia*, "a person who is the owner of a membership held or to be held subject to a special transfer agreement" [i.e., a lease]. In addition, the rules of the Exchange, in the section entitled "Admission of Members and Member Organizations", state that:

An individual or organization may purchase one or more regular or options principal memberships, and must file an application with Membership Services to become the owner of such membership(s) and either a member, member organization or approved person. Applicants desiring only to own a membership nonetheless shall be subject to the same requirements and procedures as are specified below for members or member organizations, as the case may be, except for the requirements to be registered as or associated with a broker-dealer and to pass the physical examination.

Finally, the Restated Certificate of Incorporation of Amex Corp., which will come into effect on the Closing Date, provides in Section 4(6) thereof that no right to trade on New Amex shall be transferred or leased apart from the Membership in respect of which it was made available, and that the exercise, transfer and lease of such trading right is subject to the Constitution of New Amex.

⁷"Board of trade" is a term utilized in the New York Not-for-Profit Corporation Law (see § 1410) and becomes unnecessary when the Exchange becomes a creature of Delaware law.

Amex Constitution ("Government and Administration") would combine the subject matter currently addressed by Articles II and III of the current Amex Constitution. As a result, the New Amex Constitution would reserve Article III.

Article II, Section 1 of the New Amex Constitution ("The Board of Governors "Classification") describes the New Amex Board and the selection of Board members. The New Amex Board would consist of 18 persons: four Floor Governors (at least one of whom must be an equity specialist and at least one of whom must be a Registered Options Trader ("ROT")),⁸ two Upstairs Industry Governors (i.e., members affiliated with broker-dealers that have substantial contact with public customers), eight Public Governors, the two most senior members of the New Amex staff and two representatives of the NASD staff.⁹ The NASD has undertaken to include as one of the two representatives of the NASD staff a person that meets the qualifications of Public Governor on the New Amex Board. The NASD will file this undertaking with the Commission pursuant to Rule 19b-4.

The eight Public Governors and two Upstairs Industry Governors would be nominated and elected by the NASD. The four Floor Governors would be nominated by Amex Corp. and elected by the NASD.¹⁰ The NASD, however, may reject a Floor Governor nominee only if (i) the nominee is subject to a statutory disqualification, (ii) the nominee is subject to a proceeding or investigation which could result in a statutory disqualification, or (iii) the nominee has been disciplined by a securities SRO with respect to a matter involving fraud or a serious violation of U.S. securities laws. In the event the NASD rejects a Floor Governor nominee, the Amex Corp. has the right to select a substitute nominee. The procedure for nominating and electing Floor Governors has been designed to ensure that Members have the greatest possible discretion, consistent with

sound regulatory policy, in selecting their representatives to the New Amex Board.

Governors would serve two year terms in office. The four Floor Governors would be divided into two classes of two each; the first class would include an equity specialist and the second class would include an ROT. The other elected governors also would be divided into two classes each consisting of one Upstairs Industry Governor and four Public Governors. The term of the first class would expire in 1999 and the term of the second class would expire in 2000. Elected governors would be eligible to serve no more than three consecutive two year terms, except that governors in the class of 1999 and any elected governor appointed to serve for one year or less by reason of a vacancy may be elected to serve three subsequent consecutive two year terms. Article II, Sec. .01(b) provides that all elected governors other than the four Floor Governors shall be nominated and elected by the holder of the Class B Interest (the NASD Market Holding Company). The term "elected governors" does not encompass governors who are Exchange officers or representatives of the NASD staff, who are appointed by the Exchange or the NASD, respectively.

Floor Governor nominees would be proposed either by the Amex Nominating Committee or by petition signed by 25 Members and would be selected by a plurality of the Regular and Options Principal Members voting together as a single class. The Amex Nominating Committee would consist of five persons: three floor Members and two persons having no affiliation with a registered broker or dealer ("Public Members"). Each of the three principal business activities on the floor, a registered specialist, a registered options trader, and a floor broker, would be represented on the Amex Nominating Committee. The composition of the Amex Nominating Committee and the criteria for Floor Governor nominees are intended to ensure representation of the principal floor business activities on the New Amex Board. While the existence and behavior of the Amex Nominating Committee is described in the New Amex Constitution, the Amex Nominating Committee is a committee of Amex Corp., under the By-Laws of Amex Corp.

The Amex Nominating Committee would be divided into two classes: the first (terminating in 1999) would consist of a Public Member and specialist, and the second (terminating in 2000) would consist of a Public Member, a floor broker and an ROT. Persons on the

Amex Nominating Committee could not serve consecutive terms. No one affiliated with a member of the Amex Nominating Committee would be eligible as a candidate for a ticket named by it. In addition to proposing Floor Governor nominees, the Amex Nominating Committee also would propose nominees for Trustees of the Gratuity Fund, the Amex Nominating Committee, and Amex Adjudicatory Council. Candidates for these positions can also be nominated through the independent petition process described above. Members of the Trustees of the Gratuity Fund, Amex Nominating Committee and the Amex Adjudicatory Council would be elected by a plurality of Members voting together as a single class.

Section 2 of Article II of the New Amex Constitution concerns vacancies on the Board and in offices elected by the Board and generally tracks Article III, Section 9 of the current Amex Constitution. Whereas the old provision required simply a recommendation of the nominating committee, the new provision recognizes that the recommendation must come from Amex Corp., in the case of Floor Governors, and from the NASD in the case of all other Governors. The recommendation from Amex Corp. will be made by the Amex Corp. Nominating Committee and the recommendation from the NASD will be made by the NASD Nominating Committee. As with current Amex procedures, persons appointed to fill such vacancies will serve until the next annual election.

Section 3 of Article II of the New Amex Constitution ("Powers, Duties and Procedures") describes the powers of the New Amex Board and generally tracks Article II, Section 2 of the current Amex Constitution. A principal distinction between the two provisions arises from the requirement in the New Amex Constitution that the Board may not take any action that requires the consent of Amex Corp., the Amex Committee, or both under the terms of the Transaction Agreement without first obtaining such consent.

Section 3 of Article II of the New Amex Constitution deletes language excepting the Nominating Committee from among the committees that may be dissolved by the New Amex Board. Such language is no longer necessary since, as noted above, the Amex Nominating Committee is a committee of Amex Corp., and hence could not in any event be dissolved by the New Amex Board.

Section 3 of Article II ("Appeal") deletes references to the Executive Committee. New Amex will not have an

⁸The Transaction Agreement provides that on the tenth anniversary of the closing date, one additional Floor Governor would be added to the New Amex Board. The fifth Floor Governor is intended to provide Members with additional representation on the Board upon the expiration of certain contractual provisions in the Transaction Agreement.

⁹As noted above, the NASD Board would include one Floor Governor from the New Amex Board and the Chief Executive Officer of New Amex. Such Floor Governor on the NASD Board would be selected by the New Amex Board, subject to approval by the NASD National Nominating Committee. These additions to the NASD Board would begin in January 1999.

¹⁰The NASD, acting through its Board or a Board representative, will cast the vote of the holder of the Class B Interest for all elected governors, including the four Floor Governors.

Executive Committee, at least at the outset, since it is anticipated that all necessary functions can be handled by the full Board, the Amex Adjudicatory Council (discussed within) and other special or standing committees. Note that Section 3 of Article II ("Delegation of Powers") permits the New Amex Board to delegate such of its powers as it may determine consistent with the Constitution and applicable law to one or more committees composed either of governors or other persons.

The elimination of the Executive Committee from the governance structure of New Amex requires a modest amendment to Section 1010 of the *Amex Company Guide* to provide that review of delisting recommendations by the Committee on Securities may be handled by a review committee appointed by the Board rather than by the Executive Committee. (Subsequent deletions of references to the Executive Committee in the text of the New Amex Constitution generally will not be further noted in this discussion.) Conforming proposed changes to Section 1010 of the *Amex Company Guide* are included in Exhibit B to this filing.

Section 3 of Article II ("Delegation in Emergency") was deleted as superfluous in view of Article XII ("Authority to Take Action Under Emergency or Extraordinary Market").

Section 3 of Article II ("Selection of Chairman") would continue to provide that the Chief Executive Officer of the Exchange, who shall be Chairman of the Board, shall be elected by a majority of the entire Board. The section would be modified to provide for only one Vice Chairman and to require that this person be a Floor Governor. More than one Vice Chairman would be superfluous given the structure of New Amex as a subsidiary of the NASD. In addition, limiting the position of Vice Chairman to Floor Governors should enhance the representation of Members on the New Amex Board.

The New Amex Constitution eliminates current Article II, Section 2 ("Selection of General Counsel") in its entirety. This provision contemplated the appointment of a single outside general counsel and such a provision is archaic and needlessly restrictive in this era of legal specialization. It also appears inconsistent with the structure of New Amex as a subsidiary of the NASD.

Section 3 of Article II ("Members, Member Organizations and Approved Persons") would delete reference to a requirement that only Regular Members may be specialists in view of the creation of Class C Trading Rights

(discussed within). The prohibition on Options Principal Members and Limited Trading Permit Holders acting as specialists would be continued.

Section 4 of Article II ("Officers of the Exchange") corresponds to Article II, Section 3 of the current Amex Constitution and generally tracks its terms. Section 4(a) of Article II would be amended to eliminate the Chairman's status as an ex-officio member of all committees. This change clarifies that the Chairman is not a member of certain committees (e.g., the Amex Adjudicatory Council). Section 4(a) would be further amended to provide that the Chairman shall call a special meeting of the Board upon the written request of three rather than four governors (reflecting the reduced size of the Board). In addition, Section 4(a) has been further amended to eliminate the position of "Executive Vice Chairman" as unnecessary. This position has, in fact, never been occupied and no need was seen for it within the current governance structure. In addition, Section 4(a) would be amended to delete references to the Chairman's ability to call special meetings of regular members of the Exchange upon direction of the Board or upon the written request of 50 regular members. This amendment is appropriate because Amex members will no longer be corporate owners of Amex after the Closing. Instead, NASD Market Holding Company and Amex Corp. will be the corporate owners of New Amex. Any meetings of Members would be conducted under the By-Laws of Amex Corp. in the circumstances specified therein and would not be governed by the New Amex Constitution.

Various changes are proposed to Section 4(b) of Article II ("Vice Chairman") to reflect the fact that there would be only one Vice Chairman and to specify that the person occupying this position must be a Floor Governor.

Section 5 of Article II of the New Amex Constitution ("Committees") corresponds to Section 4 of Article II of the current Amex Constitution. As previously noted, the Executive Committee would be eliminated from the New Amex governance structure. There are no other substantive changes to Section 5.

Section 5 of Article II of the current Amex Constitution ("Indemnification") would be entirely eliminated from the Constitution of the New Amex. Indemnification by the Exchange of persons associated with it (e.g., Governors, officers and employees) is covered through the provisions in the LLC Agreement.

Section 6 of Article II creates the "Amex Adjudicatory Council," ("AAC") to act for the full Board in reviewing appeals from disciplinary proceedings. Modeled on NASD Regulation's National Adjudicatory Council, the AAC would consist of six persons, three of whom would be Floor Governors and three of whom would be Public Governors. AAC members would be nominated by the Amex Nominating Committee or by independent petition signed by at least 25 Members and would be elected by the Regular and Options Principal Members voting together as a single class. AAC members would be divided into two classes. The first class (terminating in 1999) would consist of two Floor Governors and one Public Governor. The second class (terminating in 2000) would consist of one Floor Governor and two Public Governors. Apart from the members of the first class whose terms would expire in 1999, AAC members would be elected to two year terms. Beginning with the class elected in 2000, no AAC member could serve more than two consecutive terms unless the member initially was appointed to fill a term of less than one year, in which case the member could serve up to two consecutive terms following the expiration of the initial term.

A quorum of the AAC would be four persons. In the event of a tie vote, the decision that was the subject of the review would be upheld. The Board would have a discretionary right to review decisions of the AAC as set forth in Article V of the New Amex Constitution (described within).

Article III (Reserved). As described above, Article III would be reserved in the New Amex Constitution.

Article IV ("Membership"). Article IV of the New Amex Constitution concerns membership and corresponds to Article IV of the current Amex Constitution. Section 1(a)(1) would be amended to reduce the number of Regular Memberships from 675 to 661 to reflect the fact that only 661 Regular Memberships currently are outstanding. (675 memberships had been authorized, but only 661 were issued.) Section 1(a)(1) would be further amended to provide that the number of Regular Memberships may be increased only if such action is consented to by Amex Corp., which as noted earlier would require a Membership vote. A conforming change would be made to Section 1(b)(1) of Article IV regarding Options Principal Memberships. Sections 1(a)(2) and 1(b)(2) of Article IV also would be amended to confirm that NASD Market Holding Company may hold Regular and Options Principal

Memberships. This change will facilitate the "Seat Market Program," which is described below. Note that under the Transaction Agreement, Memberships held by NASD Market Holding Company shall not be voted, either by NASD Market Holding Company or any lessee.

Section 1(a)(3) of Article IV ("Signing Constitution") would be amended to state that any regular member or lessee, by exercising any of the rights inherent in a regular trading right, shall be deemed to have pledged to abide by the New Amex Constitution. Section 1(b)(3) adds a similar provision applicable to options principal members or lessees. The purpose of these provisions is to clarify that existing Members will continue to be subject to the jurisdiction of New Amex.

Section 1(b)(4) of Article IV of the current Amex Constitution defines the trading privileges of Options Principal Members and would be transferred without substantive change to Article I, Section 3(d) of the New Amex Constitution (the definition of "Options Principal Member," "Options Principal Trading Right" and "Derivative Products").

Section 1(e) of Article IV ("Exchange Liability") would be amended to modernize the provision and to reflect the fact that the Exchange provides services as well as facilities to its members. The Commission recently reviewed and approved virtually identical language in connection with amendments to Chicago Board Options Exchange Rule 6.7.¹¹

Section 1(g) of Article IV ("Approval of Membership Matters") provides a procedure by which members may challenge determinations of the Exchange's administration made pursuant to Section 1 of Article IV. The appeal procedure would be clarified to eliminate the possibility of a review by an Exchange Disciplinary Panel which properly should consider only rule violations and not the Exchange staff determinations that are the subject of Section 1.

Section 1(h) of Article IV of the current Amex Constitution which concerns "fixed income security options trading permits" and "options trading permits" would be deleted in its entirety since both of these classes of trading permit have expired. Section 1(j) of Article IV of the current Amex Constitution ("Limited Trading Permits") would be renumbered as Section 1(h) in the New Amex

Constitution. The provisions regarding Limited Trading Permits ("LTPs") would be amended to reduce the maximum number of such permits from 36 to 10 to reflect the fact that there currently are only 10 outstanding.

Section 1(i) of Article IV ("Class C Trading Rights") is entirely new and provides for the creation of up to 25 trading rights that would allow holders to specialize in newly listed securities that they are responsible for bringing to the Exchange. Class C Trading Rights would have a limited life and would expire on the earlier of three years from the date of issuance or the fifth anniversary of the Closing. These permits are intended to attract firms that are not currently involved in specializing on the Exchange to bring substantial new listings to the Exchange. Accordingly, holders of Class C Trading Rights only would be eligible to be allocated securities that they brought to the Exchange, and they could not operate a joint book with a Regular Member. (A specialist holding a Limited Specialist Trading Right who then becomes a Regular Member shall be considered to have continued his registration as a specialist in the securities allocated to him without any need to submit to a further allocation process.) The New Amex Board would determine when and to whom to issue Class C Trading Rights, and the fees, dues and other charges that would be applicable. Class C Trading Rights would not be transferable except by reason of a business combination, reorganization or other transfer of all or substantially all of the assets from one member organization to another. Class C Trading Rights may be issued to qualified individuals or organizations who are instrumental in obtaining new listings of securities admitted to dealings on the Exchange that are judged by the Exchange to constitute demonstrable product. The Exchange will exercise its judgment in this matter based on both the quantity and quality of listings brought to the Exchange.

Section 1(j) of Article IV of the New Amex Constitution ("New Trading Rights") is entirely new and would prohibit the New Amex Board from issuing new forms of trading privileges, other than the 25 Class C Trading Rights authorized by Section 1(i), or grant materially new rights to the holders of existing privileges, without the consent of Amex Corp., which as noted above would require a vote of Members. This provision is intended to place limits on the ability of the New Amex Board to dilute the value of existing memberships through the unrestricted issuance of new trading rights.

There are no substantive changes to Sections 2, 3 and 4 of Article IV of the New Amex Constitution.

Section 5(a) of Article IV ("Reinstatement by Board") would be amended to eliminate reference to the Executive Committee.

There are no substantive changes to Sections 6 and 7 of Article IV.

Article V (Discipline of Members). Article V of the New Amex Constitution corresponds to Article V of the current Amex Constitution. The principal change to the Exchange's disciplinary process concerns the creation of the AAC to review appeals of right from Disciplinary Panel decisions and the consequent elimination of the Board and Executive Committee from this function. This change is intended to ensure that Members will be fairly represented in the disciplinary process. The Board, however, will be able to review AAC decisions on a discretionary basis. In the absence of such discretionary review by the Board, a decision by the AAC will be the final action of the Exchange.

Section 1(c) of Article V of the New Amex Constitution establishes the procedures for AAC review of Disciplinary Panel decisions and generally tracks the current procedures for Board review of Disciplinary Panel decisions. Respondents in contested disciplinary proceedings can take an appeal of right to the AAC, and any member of the AAC may require the review of a Disciplinary Panel decision by the full AAC. Proposed written decisions of the AAC in contested proceedings are provided to all members of the Board.

Section 1(d) of the New Amex Constitution is based upon procedures currently in place at the NASD with respect to discretionary NASD Board review of National Adjudicatory Council decisions.¹² Any four members of the New Amex Board may require Board review of an AAC decision. Ten governors would constitute a quorum at a meeting where a decision by the AAC is reviewed and a majority vote of the governors present at the meeting would be required to modify, reverse or remand the decision. If the Board does not call the matter for review, the decision would become the final action of the Exchange.

Section 2 of Article V ("Stipulation of Facts and Consent to Penalty") would be amended to provide that the AAC may review settlements of disciplinary proceedings that have been approved by a Disciplinary Panel. If the AAC rejects

¹¹ Exchange Act Release No. 37421 (July 11, 1996), 61 FR 37513 (July 18, 1996) (order approving SR-CBOE-96-02).

¹² NASD Manual—Code of Procedure Rule 9351 ("Discretionary Review by NASD Board").

the settlement, the matter would proceed before a Disciplinary Panel as if the settlement had never occurred. The AAC may reject a settlement or impose a lesser penalty upon a respondent; it cannot increase the penalty. AAC decisions to reject a settlement would not be subject to Board review but would proceed before a Disciplinary Panel as if the settlement had not occurred. AAC decisions with respect to settlements (other than rejections) would constitute the final action of the Exchange.

Section 3(f) of Article V concerns hearings following the summary suspension of a member or member organization for financial or operational reasons and has been amended to eliminate reference to the Executive Committee.

There are no material changes to Section 4 of Article V of the New Amex Constitution.

Section 5(b) of Article V would be modified to state that Disciplinary Panel decisions would be sent to the AAC rather than to the Board.

Article V only concerns the discipline of members and member organizations, and Exchange Rule 345 ("Determinations Involving Employees and Prospective Employees") sets forth the procedures applicable to disciplinary proceeding against persons associated with members and member organizations. Article V and Exchange Rule 345 largely parallel one another, and it accordingly is necessary to amend Rule 345 to provide for AAC review of disciplinary matters. The substitution of the AAC for the Board as the Exchange's appellate body also would require modest amendment to Rules 8 and 9 of the rules of procedure applicable to Exchange disciplinary proceedings, and Rule 590 ("Minor Rule Violation Fine Systems"). Conforming proposed changes to Rules 345 (disciplinary proceedings against employees of members and member organizations), Rule 590 (Minor Rule Violation Fine System) and Rules 8 and 9 of the rules of procedure applicable to Exchange disciplinary proceedings are included in Exhibit B to this filing.

Article VI. Article VI is intentionally omitted from the Constitution of New Amex. This Article in the current Amex Constitution had been rescinded effective May 1, 1976.

Article VII ("Fees and Dues"). Article VII of the New Amex Constitution ("Fees and Dues") corresponds to Article VII of the current Amex Constitution. Sections 1(a) and 1(b) would be amended to provide a flat rate initiation fee of \$2,500 for Regular and Options Principal Members. This fixed

initiation fee replaces the former graduated initiation fee schedule that has become obsolete with the increase in seat prices. (The old formula established a base initiation fee of \$1,000 that increased to a maximum of \$2,500 when seat prices rose above \$20,000.) Two additional obsolete provisions also would be deleted from Section 1(a) ("Transfer of Chairman's membership" and "Associate membership of Chairman"). These provisions dated from a time when the Chairman of the Board was chosen from among the Members of the Exchange.

There are no substantive changes to Sections 2 and 3 to Article VII of the New Amex Constitution.

Section 4 and Section 5 to Article VII of the New Amex Constitution would be amended to make explicit the implicit authority of the Board to set different charges for different services and securities. Such charges would be subject to filing with the Commission.

Article VIII ("Arbitration Procedure"). Article VIII of the New Amex Constitution corresponds to Article VIII of the current Amex Constitution. Changes would be made to Article VIII to effect a gradual phase-out of the Exchange's arbitration program and the transfer of this program to NASD Regulation. NASD Regulation currently administers in excess of 6,000 arbitrations whereas the Amex currently administers approximately 50 such proceedings. The Exchange, accordingly, believes that it would be rational to consolidate all arbitrations under the NASD umbrella with NASD Regulation.

There are no substantive changes to Section 1 of Article VIII ("Duty to Arbitrate").

Section 3 of Article VIII of the current Amex Constitution ("Rules of Arbitration") would be deleted in its entirety and replaced by new Section 3 ("Proceeding Instituted Prior to Combination"). The new Section 3 would provide that any arbitration filed prior to the Closing would be conducted by means of the arbitration facilities and procedures that existed as of the date the arbitration was instituted. Section 2 of Article VIII ("Arbitration Forum") has been amended to provide that actions filed subsequent to the Closing would be conducted pursuant to the NASD Code of Arbitration Procedure using the arbitration facilities of NASD Regulation, Inc. although the existing provision allowing use of the New York Stock Exchange arbitration procedures if all parties to the controversy are members there is preserved. Section 2(a) (which permitted the Board to decline to permit the use of the Exchange's

arbitration facilities in particular cases) and Section 2(c) (which permitted arbitration before the American Arbitration Association in certain circumstances) would be deleted in view of the complete assumption by NASD Regulation of the Exchange's arbitration program and the adoption of the NASD Code of Arbitration Procedure. Section 4 ("Arbitrator's Decision Final") also would be deleted due to the adoption of the NASD's Code of Arbitration Procedure and NASD Regulation's assumption of the arbitration program.

Section 5 of Article VIII ("Penalties") in the current Amex Constitution would be renumbered as Section 4. Section 4(b) would be amended to provide that New Amex may summarily suspend persons within its jurisdiction that fail to pay an arbitration award of an exchange or the NASD. Conforming proposed changes to the 600 series of current Amex rules relating to arbitrations are included in Exhibit B to this filing. Commentary would be added to the Rule 600 Series advising litigants that the Rule 600 series only would apply to arbitrations commenced prior to the Closing and would otherwise be of no force or effect. In addition, the Commentary would advise members and member organizations of the requirements of Article VIII, Section 2 of the Exchange Constitution (discussed above), and would state that any violation of the NASD Code of Arbitration Procedures by members and member organizations would be deemed a violation of Exchange rules and be subject to Exchange disciplinary procedures.

Article IX ("Gratuity Fund"). Provisions relating to the Gratuity Fund will remain substantially unchanged from current provisions in Article IX, except for procedures relating to appointment of Gratuity Fund trustees. Section 7 ("Income of Fund") adds new language providing for proportional credits to each participant in reduction of such participant's payments under Article IX in the event the Gratuity Fund receives any extraordinary payment from any source. Section 10 ("Classification and Selection of Trustees") would provide that Trustees of the Gratuity Fund shall be appointed by Amex Corp., based on the vote of the regular and OPM members of the Exchange. This will essentially maintain the current process by which trustees are nominated and elected in the same manner, and at the same time, as governors of the Exchange, pursuant to procedures in Article III. Section 11 would provide that in the event of a vacancy, the board of Amex Corp. shall

appoint a person qualified to serve as Trustee until the next meeting at which the Trustees to be appointed are selected. Currently, the Amex Board fills any vacancy, pending the next annual election. These procedures are consistent with procedures in the New By-Laws of Amex Corp. which provide for the election by members of Amex Corp. of Trustees of the Gratuity Fund, as well as the Amex Nominating Committee, Amex Adjudicatory Council, and nominees for Floor Governors to serve on the New Amex Board.

Article X ("Clearing Organizations"). Article X of the New Amex Constitution corresponds to Article X of the current Amex Constitution. There are no substantive changes to Article X.

Article XI ("Miscellaneous Provisions"). Article XI of the New Amex Constitution corresponds to Article XI of the current Amex Constitution. There are no substantive changes to Sections 1 through 4 of Article XI. Section 5 of Article XI would be amended to conform to the current Amex employee trading policy, which allows employees to trade standardized options issued by the Options Clearing Corporation unless such option is on an underlying security listed on the Amex. Section 6 would be added to state that the New Amex Constitution shall be governed by, and construed in accordance with, Delaware law without regard to Delaware conflict of laws principles.

Article XII ("Authority To Take Action Under Emergency or Extraordinary Market Conditions"). Article XII of the current Amex Constitution would be deleted in its entirety and replaced by a provision comparable to Article VII, Section 3 of the NASD's By-Laws. In addition, Article XII of the current Amex Constitution currently references emergency by-laws under Subdivision 17 of Section 12 of the New York State Defense Emergency Act and to the effectiveness of emergency by-laws of New York Corporations. These references would no longer be appropriate to New Amex, as a Delaware Limited Liability Company.

Article XIII ("Amendments to the Constitution"). Article XIII of the New Amex Constitution corresponds to Article XIII of the current Amex Constitution. Article XIII would be substantially revised to reflect the status of New Amex as a subsidiary of the NASD. Section 1 sets forth the basic principle that the New Amex Constitution may be amended by a majority of the Governors and the holder of the Class B Interest, NASD

Market Holding Company, without any further procedures at the SRO level except where the change would require the consent of Amex Corp. or the Amex Committee. Thus, the NASD, via its wholly-owned subsidiary, NASD Market Holding Company, must approve, and has the power to veto, any proposed amendments to the New Amex Constitution. Historically, the corporate owners of the Amex have been required to approve amendments to the Amex Constitution (*i.e.*, by-laws). It is appropriate that, in the new organization, the corporate owner of New Amex have the same ability.

Sections 3 and 4 of Article XIII of the New Amex Constitution set forth the procedures for obtaining the consent of the Amex Corp. in circumstances where a vote of the members is required. The consent of Amex Corp. would be granted if it is authorized by a majority of Regular and Options Principal Members voting together as a single class.

Section 2 ("Adoption by Board") preserves the process in the current Amex Constitution whereby members may petition the Board to adopt amendments to the Constitution. The amendment would be approved upon the vote of a majority of governors then in office and the holder of the Class B Interest.

Article XIV (Reserved). Article XIV of the New Amex Constitution has been reserved. In the current Amex Constitution this Article dealt with implementation of certain amendments previously adopted.

Amex Committee. The Transaction Documents also establish a seven-member Amex Committee ("Committee") which has diverse powers detailed in the Transaction Agreement and provides representation of various Exchange constituencies, including specialists, registered options traders and floor brokers with respect to, among other areas, the operation of the equity and options market and the development of new trading facilities. The representation of the interests of the various business segments on the Exchange floor supplements the Floor representation on the New Amex Board provided under Article II of the New Amex Constitution (discussed above), and is intended to enhance the involvement and representation of diverse member groups in the administration of Exchange affairs in a number of significant areas. The Committee is required to exercise its powers in the best interests of Amex Corp. and the Members, and consists of (1) three Public Members, one of whom will serve as chairman; (2) one person

who is not active on the floor of the Exchange but who is associated with a member organization of the Exchange; and (3) three "floor members" who are active on the floor of the Exchange, one whose principal business is as a specialist on the Equity Market or Options Market, one whose principal business is as a registered options trader and one whose principal business is as a floor broker.

The initial three floor members will be nominated by the Floor Governors on Amex Corp.'s current Board, and agreed to by Amex Corp. and the NASD before the Closing. The other initial Amex Committee members will be designated by the NASD and agreed to by Amex Corp. and the NASD before the Closing. The chairman will be selected by the Amex Committee from among the Amex Committee Public Members, and the initial chairman will be Paul Volcker, former Chairman of the Federal Reserve System and formerly a member of the Amex Board of Governors.

Amex Committee members will be divided into three classes with staggered three-year terms. No Amex Committee member may serve more than two consecutive three-year terms. Vacancies on the Amex Committee will be filled by a person of the same category as the vacating member. Replacements for floor members will be chosen by the Floor Governors on New Amex's Board. Replacement members for other Amex Committee members, including the chairman, will be chosen by a majority of the remaining members of the Amex Committee or, in some circumstances, by action of New Amex's Board (including the approval of at least two Floor Governors of New Amex). All replacements will be subject to the approval of the NASD's Chairman. All Amex Committee decisions will require a majority vote at a meeting at which at least five members are present. For a period of ten years from the Closing Date, New Amex will not make a material change to the equity or options market without the consent of the Amex Committee. From and after ten years from the Closing Date, an affirmative vote of two-thirds of the entire New Amex Board can override disapproval by the Amex Committee of a material change to the Equity Market structure, as described in Exhibit D to the Transaction Agreement, or to the options market.

The Amex Committee also has a role in a number of other significant aspects of the transaction, including the acquisition by the NASD of other options or securities exchanges, the timing of the modernization of the New Amex trading facility, and the

monitoring of amounts spent by the NASD for new technology for New Amex.

Limits on Floor Fee Increases. New Amex must give the floor members on the Amex Committee at least ten business days' prior notice before aggregate costs and fees to floor members and other floor participants on the Exchange can be increased by more than ten percent in any calendar year. A majority of those persons may vote to submit the matter to binding arbitration. Such arbitration will last no more than 30 days and will determine whether the increases were reasonable and fair in light of all relevant factors, including the costs other major securities exchanges charge their members, the costs historically imposed by the Exchange, and changes in the expenses and overall economic performance of the Exchange (other than debt service in connection with the \$110 million Development Program described below).

Limits on Issuance of New Seats and Trading Rights. Regular and Options Principal Trading Rights. Following the Closing, Regular and Options Principal Members (as well as holders of Limited Trading Permits) will have the same privileges as they currently have with respect to the conduct of business on the floor of the Exchange. There is no plan to change the existing process of buying, selling and leasing Regular or Options Principal Memberships or Limited Trading Permits.

If the New Amex Board believes that additional Regular or Options Principal Memberships should be issued, it must request Amex Corp. to do so. Upon receiving such a request, Amex Corp. must put the question to a vote of Members. Amex Corp. must grant such request only if authorized by the affirmative vote of a majority of the Regular Memberships and the Options Principal Memberships voted (as a single class) at a meeting called for the purpose of considering the request of New Amex. This requirement continues indefinitely.

Any new Regular or Options Principal Memberships authorized in this manner must be issued by way of a rights offering to all of the then-current Members. Each Member (or in the case of a leased Membership, the lessor) will receive a right or rights which, in combination with a specified number of other rights, may be surrendered for a newly issued membership. The rights will be transferable by their holders. Subject to membership qualification requirements, Amex Corp. will issue one new Regular or Options Principal Membership without charge (but subject to any initiation or other applicable

fees) to each holder who has assembled the required number of rights. Any new Regular or Options Principal Membership issued in this manner will have the same rights and privileges as the Regular or Options Principal Memberships outstanding immediately before the issue.

Limited Trading Permits; New Trading Rights. Existing Limited Trading Permits will remain in force after the Closing in accordance with the terms of the New Amex Constitution.

Except for the Class C Trading Rights (described above), New Amex may not issue any new rights to trade on the floor of the Exchange or grant materially new rights to holders of existing trading privileges without the consent of Amex Corp. Amex Corp. must give its consent if and only if authorized by the affirmative vote of a majority of the Regular Memberships and Options Principal Memberships voted (as a single class) at a meeting called for considering the request of New Amex.

Seat Market Program. Commitment. The Transaction Agreement provides that a Seat Market Program for Regular and Options Principal Memberships will begin immediately after the Closing. This program is intended to moderate possible downside volatility in seat prices following the Closing. The NASD has committed to fund this program, but no "trust" or other segregated fund will be created. Immediately after the Closing, the NASD will commit \$30 million for this program. On January 1, 1999, the NASD will increase its commitment by \$10 million. The NASD may fund this \$10 million increase itself or, to the extent the 1998 earnings of Amex Corp. and New Amex allow, from the assets of New Amex.

In addition, the NASD will:

- * Increase its commitment by any after-tax net proceeds received from leasing Regular or Options Principal Memberships purchased under the program,
- * Increase or decrease its commitment, as the case may be, by the after-tax profit or loss realized from reselling such memberships,
- * Decrease its commitment by the payments or expenditures pursuant to the program (other than payments or expenditures for purchasing Memberships under the program), and
- * Increase its commitment by imputed interest at an annual interest rate of five percent:

—On the amount of the commitment, for the first five years after the Closing; and

—On the difference between the amount of the commitment and the

aggregate purchase price of all Memberships purchased under the program during the period they are held by the NASD, after the fifth anniversary of the Closing.

The liquidation, dissolution or winding up of New Amex will not affect the NASD's funding commitment under the Seat Market Program.

Seat Committee. The Transaction Agreement provides for a six-member seat committee (the "Seat Committee") which will control the program. The Seat Committee will be composed of three Regular or Options Principal Members (at least one of whom is active on the floor of the Exchange and at least one of whom is not active on the floor of the Exchange), two Public Members and the NASD's Chairman (or his designee). The Regular or Options Principal Members on the Seat Committee will not be from large multi-service broker-dealer firms.

The Floor Governors of New Amex will choose the Regular or Options Principal Members to serve on the Seat Committee, and will fill vacancies in those three positions, in each case subject to the approval of the NASD's Chairman. The other members of the Seat Committee will be chosen, and vacancies filled, by the NASD's Chairman.

Purchases, Sales and Leasing. During the Seat Market Program, the NASD must purchase Regular and Options Principal Memberships, as and if directed by the Seat Committee. Memberships held or leased by the NASD may not be voted. The NASD may sell or lease Memberships purchased under the program, and net proceeds will be returned to the program.

Other Applications of Funds. On or soon after the fifth anniversary of the Closing, the Seat Committee may recommend that the NASD apply up to \$30 million of such funds in one or more of the following ways:

- * Distributions to Members,
- * Reductions in Exchange fees, or
- * Investments in technology for the Exchange (which will not count toward the \$110 million Development Program, described below).

The Seat Committee also may recommend that no fund amounts be spent on any of these choices. Every two years after the fifth anniversary of the Closing, the Seat Committee can recommend that the balance of the commitment be applied to one or more of the above choices.

Each of these Seat Committee recommendations will require the consent of Amex Corp. Upon receiving

a Seat Committee recommendation, Amex Corp. must put the matter to a vote of Members. It must give its consent if, and only if, authorized by the affirmative vote of a majority of the Regular and Options Principal Members voted (as a single class) at a meeting called for the purpose of considering the Seat Committee's recommendation. If it receives Amex Corp.'s consent, the NASD must comply with the Seat Committee's recommendation. If the Seat Committee's recommendation is not approved, the Seat Committee must make a new recommendation.

If the Seat Committee's recommendation is other than that funds be distributed to Members, and two or more Floor Governors of New Amex disagree with that recommendation, they may require Amex Corp. to call for a vote of Members. In this case, the Regular and Options Principal Members, voting as a single class, will decide between (i) approving the Seat Committee's recommendation and (ii) approving a distribution to Members with an allocation between Regular and Options Principal Members as proposed by the three Regular or Options Principal Members on the Seat Committee. If two-thirds of the Regular and Options Principal Members voted (as a single class) at a meeting called for the purpose of considering the matter approve the distribution, the Seat Committee will direct the NASD to make such distribution. In the case of any vote on the distribution of funds to Members, the Regular and Options Principal Members will vote as separate classes on whether to approve the proposed allocation of the distribution between Regular and Options Principal Members. If either class of Members fails to approve the proposed allocation, the Seat Committee will appoint an arbitrator to decide an equitable allocation between the two classes.¹³

¹³In *Selma Philipson v. American Stock Exchange, et al.*, 98 Civ 4219 (DC), United States District Court, Southern District of New York, filed as a class action, plaintiff challenged the transaction between the Amex and the NASD on several grounds. The NASD and the Amex have negotiated an agreement in principle for the settlement of this litigation which provides that the Seat Committee shall consider, 18 months and 36 months after the Closing, whether half of the NASD's initial \$30 million commitment to the Member Equity Program should be distributed to owners of membership interests, used to reduce Exchange fees, or invested in technology for the Exchange, rather than continuing to be held for the purchase of seats. After five years, any remaining portion of the initial \$30 million commitment must be used for one of these three purposes. In addition, the agreement provides that the NASD shall contribute to a separate fund 15% of any amount by which New Amex's annual after-tax income in each of the first

2. Basis

Amex believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(3) in particular in that the proposed provisions of the New Amex Constitution assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The proposed amendments seek to promote fair representation of the various Exchange floor constituencies by providing meaningful, ongoing participation and input by such constituencies in the governance and operation of the Exchange equity and options markets, while, at the same time, providing appropriate input and oversight by the NASD as the parent corporation and the entity with ultimate responsibility for New Amex.

Amex believes the composition of the New Amex Board ensures representation by both "upstairs" member organizations and the Exchange Floor. The New Amex Constitution (proposed Article II, Sec. .01(a)) provides for two "Upstairs Industry Governors" and four Floor Governors, with at least one of the Floor Governors required to be an equity specialist and at least one a registered options trader. Procedures for nominating Floor Governors ensures that the diverse interests of Floor members, as well as the public, are reflected in the nomination process. Proposed Article II, Sec. .01(c) provides that the Amex Nominating Committee consist of three active Floor Members, including a specialist, a registered options trader and a Floor broker, and two public representatives. The nominees of the Nominating Committee, or alternatively,

ten years after the Closing exceeds a specified base amount. A committee consisting of three members of the Exchange and the Chairman of the NASD will determine whether this fund shall be distributed to owners of membership interests, invested in technology for the Exchange, or used to fund pension or retirement benefits for owners of membership interests. The proposed settlement is subject to execution of a formal settlement stipulation, which will then be subject to court approval following notice to all members of the plaintiff class.

It is the view of Amex that, once court approval is received, the terms of the settlement will be able to be implemented without the necessity of further amendment of the Transaction Agreement or any further approval from the Commission. Telephone Call between James Duffy, Executive Vice President and General Counsel, Amex, and Michael Walinskas, Deputy Associate Director, Commission, September 10, 1998.

a nominee or nominees proposed by a petition signed by at least twenty five regular and/or options principal members, are chosen by a vote of regular and OPM members voting together as a single class. The NASD (the holder of the Class B interest) may reject any such proposed nominee only for the specific regulatory reasons enumerated in proposed Article II, Sec. .01(b), namely, if such person is subject to a statutory disqualification or is subject to a proceeding or investigation which could result in a statutory disqualification, or if such person has been disciplined by a securities self-regulatory organization with respect to a matter involving fraud or a serious U.S. securities law violation.

Amex believes the Board composition, together with the use of the Amex Nominating Committee, assure that members are represented fairly in the selection of the Board and thereby in the administration of Exchange affairs. Proposed Article II, Section 1 also provides that the New Amex Board shall include eight Public Governors, all of whom are nominated by the NASD Nominating Committee. In addition, the NASD has undertaken to include as one of the two representatives of the NASD on the New Amex Board a person that meets the qualifications of Public Governor on the New Amex Board. Thus, of the 18 New Amex Board members, nine will meet such Public Governor qualifications. Amex believes such proportion of public governors (who are not themselves and are not affiliated with, a securities broker or dealer) provides substantial and meaningful input by the public in Exchange governance.

The AAC, provided for in proposed Article II, Sec. .06 establishes a mechanism for meaningful participation by Exchange members, as well as the public, in Exchange disciplinary processes, and promotes the equitable conduct of the Exchange's regulatory responsibilities.¹⁴ The AAC, which

¹⁴In its 1997 Concept Release relating to regulation of exchanges, the Commission interpreted the fair representation requirements under Section 6(b)(3) as follows:

* * * fair representation of an exchange's members also serves to ensure that an exchange is administered in a way that is equitable to all market members and participants. Because a registered exchange is not solely a commercial enterprise, but also has significant regulatory powers with respect to its members, competition between exchanges may not be sufficient to ensure that an exchange carries out its regulatory responsibilities in an equitable manner. The fair application of an exchange's authority to bring and adjudicate disciplinary procedures may be particularly important in this respect, because these actions can have significant and far-reaching ramifications for broker-dealers. Accordingly, under the Exchange

includes three Public Governors and three Floor Governors, has authority to act for the Board subject to the Board's discretionary right of review in the areas specified in Article II, Sec. .06(a), including with respect to any appeal or review of a disciplinary proceeding, a statutory disqualification proceeding, or a membership proceeding. Article V, Sec. .01(c) provides for AAC review of Exchange Disciplinary Panel determinations, subject to discretionary right of review by the Board under Article V, Sec. .01(d). The AAC decision becomes final if not reviewed by the Board. Such decision may then be appealed only to the Commission.

As described above, the Amex Committee also has been established to provide for significant input by floor members, the public and member organizations not on the floor with respect to the administration of Exchange affairs, including the New Equity Market Structure.

Amex believes the proposed rule change is consistent with Section 6(b)(8) of the Act which requires that the rules of the Exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The transaction between the Amex and the NASD promotes intermarket competition by providing significant additional financial resources to the Exchange to develop a New Equity Market Structure, including facilities for the automatic execution for electronically delivered orders and a new electronic order book. This initiative will enhance the primary auction market by improving efficiency and lowering costs, which will improve the competitiveness of the New Amex primary auction market and make it a more viable technologically-advanced alternative to other exchange auction markets, including the New York Stock Exchange, for listings and equity order flow. In addition, the NASD/Amex transaction will provide additional resources to permit the Exchange's options market to develop systems and facilities required to compete more effectively with other U.S. and foreign options markets.

Amex believes the proposed rule change is also consistent with Section 6(b)(5) of the Act in that the proposed amendments are designed to prevent fraudulent and manipulative acts and

practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule 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 Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All submissions should refer to File No. SR-Amex-98-32 and should be submitted by October 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,
Deputy Secretary.

EXHIBIT A—AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

(Text in brackets indicates material to be deleted; italicized text indicates material to be added.)

A. Constitution

Article I. Title—Purposes—Definitions

Sec. 01. Title

The title of this [Corporation] *Company* shall be ["American Stock Exchange, Inc."] "*American Stock Exchange LLC*", hereinafter referred to as the "Exchange."

Article I. Title—Purposes—Definitions

Sec. 02. Purposes

The purpose of the Exchange shall be:

Securities [market place] *Market Place*

(a) to provide a securities market place where high standards of honor and integrity shall prevail and to promote and maintain just and equitable principles of trade and business;

[Board of Trade

(b) to conduct and carry on the functions of a "board of trade" within the meaning of that term in the New York Not-for-Profit Corporation Law;

An exchange] *An Exchange*

[(c)] (b) to conduct and carry on the functions of an "exchange" within the meaning of that term in the Securities Exchange Act of 1934; and

[New York Not-for-Profit Corporation] *Delaware Limited Liability Company* Law

[(d)] (c) to conduct and carry on any and all activities incidental to the foregoing which may lawfully be conducted and carried on by a [corporation] *company* of its type formed under the [New York Not-for-Profit Corporation] *Delaware Limited Liability Company* Law.

¹⁵ 17 CFR 200.30-3(a)(12).

Act structure, it may be essential to give exchange participants equitable and enforceable input into disciplinary and other key processes to prevent them from being conducted in an inequitable, discriminatory, or otherwise inappropriate fashion.

Exchange Act Release No. 38672 (May 23, 1997), at 66, 62 FR 30485 (June 4, 1998) ("Concept Release").

Article I. Title—Purposes—Definitions**Sec. 03. Definitions**

The following terms as used in this Constitution and in the rules adopted pursuant thereto shall, unless the context otherwise indicates, be construed as follows:

Rules of the Exchange

(a) The term “rules of the Exchange” shall include the Constitution and all rules and commentaries adopted pursuant thereto.

Member

(b) The term “member”, when not preceded by the word “regular”, “options principal”, “allied”, or “associate”, shall include regular, options principal, allied and associate members.

[Allied member] *Regular Member; Regular Trading Right*

[(c)] (c) The term “regular member” means a person holding a regular trading right issued by The Amex Corporation.

The term “regular trading right” means the right to transact business on the Floor of the Exchange generally.

Options Principal Member; Options Principal Trading Right; Derivative Products

(d) The term “options principal member” means a person holding an options principal trading right issued by The Amex Corporation.

The term “options principal trading right” means the right to execute on the Floor of the Exchange transactions in options and other derivative products for the right holder’s own account, and to give orders in options and other derivative products for his own account to regular members for execution. The holder of an options principal trading right may not execute agency transactions on the Floor either for customers or for regular, associate or allied members or other options principal members, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products), and may not accept any orders from his member organization for execution.

The term “derivative products” includes, in addition to standardized options, other securities which are issued by The Options Clearing Corporation or another limited purpose entity or trust, and which are based solely on the performance of an index or portfolio of other publicly traded securities. Notwithstanding the foregoing, the term “derivative products” shall not include warrants of any type or closed-end management investment companies.

Allied Member

(e) No change. (Repositioned from former Art. I, Sec. .03(c)).

Member Organization

(f) No change.

Approved Person

(g) No change.

Publicly [held security; voting stock; non-voting stock] *Held Security; Voting Stock; Non-Voting Stock*

(h) No change.

Security or [securities] *Securities*

(i) No change.

Member Contracts

(j) No change.

Exchange Contracts

(k) The term “Exchange Contracts” shall include all “Member Contracts”:

(1) made on the Exchange; or

(2) not made on the Exchange, unless made subject to the rules of another [Exchange] exchange or Nasdaq, or unless the parties thereto have expressly agreed that the same shall not be Exchange Contracts.

Date of [death] *Death*

(l) No change.

Entire Board

(m) No change.

He, Him, or His

(n) No change.

Special Transfer

(o) No change.

Lessor

(p) No change.

Lessee

(q) No change.

Nominee

(r) No change.

NASD

(s) The term “NASD” means the National Association of Securities Dealers, Inc.

Nasdaq

(t) The term “Nasdaq” means The Nasdaq Stock Market, Inc.

Transaction Agreement

(u) The term “Transaction Agreement” means the agreement dated as of May 8, 1998, between the American Stock Exchange, Inc. and certain other parties, including the NASD, pursuant to which substantially all of the assets of the American Stock Exchange, Inc. were transferred to the Exchange, as it may be amended from time to time.

Predecessor Corporation

(v) The term “Predecessor Corporation” means the American Stock Exchange, Inc. prior to the date of the Transaction Agreement, and The Amex Corporation after that date.

Amex Committee

(w) The term “Amex Committee” means the committee by that name established pursuant to the Transaction Agreement.

Class A Interest

(x) The term “Class A Interest” refers to the limited liability company interest in the

Exchange initially issued to the Predecessor Corporation.

Class B Interest

(y) The term “Class B Interest” refers to the limited liability company interest in the Exchange initially issued to NASD Market Holding Company, a wholly-owned subsidiary of the NASD.

Amex Corporation

(z) The term “The Amex Corporation” means the New York Not-for-Profit Corporation that holds the Class A Interest in the Exchange.

NASD Nominating Committee

(aa) The term “NASD Nominating Committee” means the National Nominating Committee appointed pursuant to Article VII Section 9 of the NASD By-Laws.

Article II. Government and Administration
Sec. 01. The Board of Governors—
Classification

Classification

(a) The Board of Governors shall be composed of:

(1) [Twelve] Six regular, options principal, associate or allied members of the Exchange [having the following qualifications: (i) each] (i) two of whom shall be [a principal executive officer of a] affiliated with regular[, options principal] or associate member [corporation, or a principal partner of a regular, options principal or associate member firm, or a regular or options principal member of the Exchange who is not associated with any member organization; (ii) at least four of the twelve governors shall be principal executive officers of regular or associate member corporations or general partners of regular or associate member firms, which firms or corporations] organizations that engage in a business [involving] having substantial direct contact with public securities customers [; (iii) at least two of the four governors provided for in clause (ii) shall reside and have their principal place of business more than 100 miles from the City of New York; (iv) at least five, but not more than five, of the twelve governors shall] (“Upstairs Industry Governors”), and (ii) four of whom shall be persons who spend a substantial part of their time on the Floor of the Exchange [; and (v) at least two of the five governors provided for in clause (iv)] (“Floor Governors”). At least one of the Floor Governors shall be principally engaged in business as a registered [as specialists;] equity specialist, and at least one shall be principally engaged in business as a registered options trader;

(2) [Twelve] Eight representatives of the public (i) none of whom is, or is affiliated with, a broker or dealer in securities and (ii) [not less than three] all of whom are [principal executive officers of corporations whose securities are admitted to dealings on the Exchange] nominated by the NASD

Nominating Committee ("Public Governors"); and

(3) The [Chief Executive Officer] *two most senior officers* of the Exchange, [who shall be the Chairman of the Board, and the Executive Vice-Chairman, if there be one, or if there is no Executive Vice-Chairman, the President, if there be one.] *and*

[(b) The twelve regular, options principal, associate or allied member governors and the twelve public governors]

(4) *Two representatives of the staff of the NASD.*

(b) *All elected governors other than the four Floor Governors shall be nominated[,] and elected by [vote of the regular members of the Exchange, in accordance with the provisions of Article III. The Chief Executive Officer of the Exchange] the holder of the Class B Interest. The four Floor Governors shall be nominated by the holder of the Class A Interest and elected by the [Board by the affirmative vote of the majority of the entire Board] holder of the Class B Interest. A nominee for Floor Governor may be rejected by the holder of the Class B Interest only if such person (i) is subject to a statutory disqualification within the meaning of Section 3(a)(39) of the Securities Exchange Act of 1934, (ii) is subject to a proceeding or investigation which could result in such a statutory disqualification, or (iii) has been disciplined by a securities self-regulatory organization with respect to a matter involving fraud or a serious violation of the U.S. securities laws. The holder of the Class A Interest shall have the right to submit a substitute nominee in the event of any such rejection. All governors shall be of equal standing and shall be entitled to one vote each at all meetings of the Board.*

(c) The [governors elected by the] *nomination of the Floor Governors by the holder of the Class A Interest shall be accomplished in the following manner. The nominees shall be chosen by vote of the regular and options principal members voting together as a single class on candidates selected and proposed either by the Amex Nominating Committee or by petition signed by at least twenty-five regular and/or options principal members. The Amex Nominating Committee shall consist of five persons, three of whom shall be members active on the Floor of the Exchange ("Floor Members"), and two of whom shall be representatives of the public having no affiliation with a broker or dealer in securities ("Public Members"). Of the three Floor Members, one shall be principally engaged in business as a registered equity specialist, one shall be principally engaged in business as a registered options trader, and one shall be principally engaged in business as a Floor broker on the Floor of the Exchange.*

(d) *The two governors who are representatives of the staff of the NASD shall be appointed by the NASD and shall serve on the Board until their successors are appointed. The two most senior officers of the Exchange shall serve on the Board for as long as they hold such offices.*

(e) *The Floor Governors shall be divided into [three classes, each class consisting of eight governors;] two classes. The first class shall include at least one governor who is an equity specialist. The second class shall include at least one governor who is a registered options trader.*

[(1)](f) *The members of the Amex Nominating Committee shall be divided into two classes. The first class shall consist of one Public Member and the Floor Member who is a registered specialist, and the [(i) four regular, options principal, associate or allied members of the Exchange who meet the qualifications described in subsection (a)(1)(i) of this Section, at least two of whom meet the qualifications described in subsection (a)(1)(ii), at least one of which two meets the additional qualifications described in subsection (a)(1)(iii), and one, but not more than one, of whom meets the qualifications described in subsection (a)(1)(iv), and (ii) four representatives of the public who meet the qualifications described in subsection (a)(2)(i) of this Section, at least one of whom meets the additional qualifications described in subsection (a)(2)(ii);*

[(2) The] *second class shall consist of [(i) four regular,] one Public Member, the Floor Member who is a registered options [principal, associate or allied members of the Exchange who meet the qualifications described in subsection (a)(1)(i) of this Section, at least one of whom meets the qualifications described in subsection (a)(1)(ii), and two, but not more than two, of whom meet the qualifications described in subsection (a)(1)(iv), and (ii) four representatives of the public who meet the qualifications described in subsection (a)(2)(i) of this Section, at least one of whom meets the additional qualifications described in subsection (a)(2)(ii); and] trader, and the Floor Member who is a Floor broker.*

[(3) The third class](g) *The Upstairs Industry Governors and the Public Governors shall be divided into two classes, each of which shall consist of [(i) four regular, options principal, associate or allied members of the Exchange who meet the qualifications described in subsection (a)(1)(i) of this Section, at least one of whom meets the qualifications described in subsections (a)(1)(ii) and (iii) and two, but not more than two, of whom meet the qualifications described in subsection (a)(1)(iv), and (ii) four representatives of the public who meet the qualifications described in subsection (a)(2)(i) of this Section, at least one of whom meets the additional qualifications described in subsection (a)(2)(ii).] one Upstairs Industry Governor and four Public Governors.*

[(d)](h) *The initial terms of the [governors of the first, second and third] Floor Governors, members of the Amex Nominating Committee, Upstairs Industry Governors, and Public Governors in the first and second classes shall terminate in [1982, 1983] 1999 and [1984,] 2000 respectively, upon the election of their successors [in accordance with the provisions of Article III. Subsequent*

to the initial terms of office, the governors of]. Thereafter, the persons in each class shall be elected for [three] two-year terms and shall hold office until their successors [have been elected in accordance with the provisions of Article III.] are elected.

[(e) No person](i) *No Floor, Upstairs Industry or Public Governor who has served [all or part of two] three consecutive elected terms as a governor shall be eligible for election [by the regular members] as a governor, except after an interval of two years[,] provided, however, that [(i) the Nominating Committee may in its discretion nominate for election to a third] Governors in the first class whose term in office expires in 1999, and any other governor appointed to the Board for one year or less by reason of a vacancy, may subsequently be elected to serve three consecutive [term an incumbent governor who is serving the final year of his or her second elected term if the] two-year terms.*

(j) *No person shall serve for all or part of two consecutive terms as a member of the Amex Nominating Committee [determines that such governor has made an extraordinary contribution to the Exchange and that the interest of the Exchange will best be served by permitting such person to stand for reelection; and (ii) an incumbent governor]. No member of the Amex Nominating Committee, and no person having a business affiliation with a member of the Amex Nominating Committee, shall be eligible [for election to a third consecutive term if nominated by independent nomination as provided in Section 7(f) of Article III. Notwithstanding the foregoing provisions, at no time may more than four governors be serving a third consecutive term, and of those four governors, no more than three may be representatives of the public who meet the qualifications described in subsection (a)(2), no more than one may be] as a candidate for office on the ticket named by it. Any vacancy in the Amex Nominating Committee shall be filled by the remaining members thereof, who shall elect a person qualified to fill the vacancy.*

(k) *Each governor that is not a regular[,] or options principal[, associate or allied member who meets the qualifications described in subsection (a)(1)(iv), and no more than one may be a regular, options principal, associate or allied member who meets the qualifications described in subsection (a)(1)(ii).*

[(f) Each non-regular member governor] *member of the Exchange shall be deemed to have agreed to uphold the Constitution by acceptance of the office of governor. [Non-] Each governor that is not a regular [member governors and public governors] or options principal member of the Exchange shall have the right to go on the Floor of the Exchange but shall not have the right to transact business in securities thereon, and shall have no rights or obligations with respect to*

contributions to, or benefits from, the Gratuity Fund.

Article II. Government and Administration

Sec. 02. Vacancies

(a) A vacancy shall occur in the office of any governor if the Board of Governors shall determine, by the affirmative vote of a majority of the entire Board, that such office holder no longer satisfies the requirements pursuant to which he was elected or is no longer eligible within the classification to which he was elected to the Board.

Absence of Governor

(b) If a governor shall have been absent from three consecutive regular meetings of the Board of Governors, without having been excused by the Chairman, the Board may, by the affirmative vote of a majority of the entire Board, remove such governor and declare the office theretofore held by him to be vacant.

Expulsion, Suspension or Insolvency

(c) The expulsion, suspension or insolvency of a person holding office or of his member organization shall create a vacancy in the office held by such person.

Removal

(d) In the event of the refusal, failure, neglect or inability of an officer approved or elected by the Board, or any governor, to discharge the duties of his office, or for any cause, of the sufficiency of which the Board of Governors shall be the sole judge, the Board shall have the power, by the affirmative vote of a majority of the entire Board, to remove such officer or governor and declare the position held by him to be vacant.

Vacancies in Board

(e) All vacancies occurring in the offices of governors shall be filled by the Board by the appointment of persons recommended by the holder of the Class B Interest in the Exchange with respect to all governors other than Floor Governors, and by the holder of the Class A Interest in the Exchange with respect to Floor Governors, to serve until the next annual election.

Vacancies Among Officers Elected by the Board

(f) In case any vacancy shall occur in any office to which the holder is elected by the Board, such vacancy shall be filled by election by the Board of a person eligible to serve in such office.

Article II. Government and Administration

Sec. [02] 03. Powers, Duties and Procedures

Powers and [duties] Duties

The Board of Governors shall be vested with all powers necessary for the government of the Exchange, the regulation of the business conduct of members and member organizations of the Exchange and of approved persons in connection with their conduct of the business of member organizations, provided, however, that the Board of Governors shall not take any action that requires the consent of The Amex Corporation, the Amex Committee, or both under the terms of the Transaction

Agreement without first obtaining such consent.

Rules

In the exercise of its powers, the Board may adopt, modify or rescind such rules, require such appearances and the filing of such reports, issue such orders and directions, and make such decisions as it may deem appropriate, which rules, requirements, orders, directions and decisions shall be binding upon members, member organizations and approved persons concerned.

Procedure

The Board shall determine the manner and form by which its proceedings shall be conducted; shall make such appointments and perform such other duties as are required herein; shall remove any officer or dissolve any committee, [except the Nominating Committee,] when in its opinion the public interest or the welfare of the Exchange so requires; and shall have original and supervisory jurisdiction over any and all subjects and matters referred to committees or officers, and may direct and control their actions or proceedings at any stage thereof.

Finances

The Board shall have control of the property and finances of the Exchange. No purchase of real property shall be made by the Exchange, nor shall it sell, mortgage or lease real property, unless authorized by the affirmative vote of a majority of the entire Board. By the affirmative vote of a majority of the entire Board, it shall fix the amount of fees and compensation, if any, to be paid to governors, to members of committees, to Arbitrators, to Trustees of the Gratuity Fund and to members and other persons called to give information before the Board or any committee.

Delegation of [powers] Powers

The Board of Governors by the affirmative vote of a majority of the entire Board, may delegate such of its powers as it may from time to time determine, subject to the provisions of the Constitution and applicable law, to such committee or committees [composed of Governors,] as the Board may from time to time authorize. The Board may assign such authority and duties to the Chairman and to other officers and employees of the Exchange in addition to those specified in the Constitution, as the Board may from time to time determine, subject to applicable law.

The Board of Governors may also appoint such other committees, composed either of governors or other persons, with such powers other than those vested in the Board under the Constitution or applicable law, and for such terms as it may from time to time determine. Subject to the approval of the Board, and after seeking the advice of all segments of the membership, the Chairman shall from time to time appoint a number of regular, options principal, associate and allied members of the Exchange, and individuals who are employed by or associated with a member organization in a senior capacity, who shall be designated as Exchange Officials, to serve on such committees. In selecting such Exchange

Officials, the Chairman shall give due consideration to the various phases of Exchange activities and member organization operations.

Appeal

An appeal to the Board from a decision of any committee [other than the Executive Committee,] or from a decision of any officer or employee acting under authority granted by the Board may be taken by a member, member organization or approved person affected by such decision, by filing with the Secretary of the Exchange a written demand therefor within five business days after the decision has been rendered. A member of any such committee taking part in the hearing of a matter may, within two days after a decision has been made thereon, appeal therefrom to the Board by filing a written demand therefor with the Secretary of the Exchange. Any member or ex-officio member or additional member of any such committee from whose decision an appeal to the Board is taken pursuant hereto may participate in the hearing of such appeal, but shall not participate in the deliberation or determination of the Board thereon. The decision of the Board with respect to any such appeal shall be final and conclusive, except that the Board under its general power of delegation may authorize [the Executive Committee] a committee to consider any specific appeal or any class or type of appeals and in such case the decision of the [Executive Committee] committee with respect thereto shall be final and conclusive. [Delegation in emergency

Whenever it shall appear to the Board that an emergency exists, other than as provided for in Article XII, it may by resolution adopted by the affirmative vote of a majority of the entire Board delegate all of its powers which may lawfully be delegated, for such period as it may determine, to a Special Committee, to be composed of three or more governors, at least half of whom shall be regular, options principal, associate or allied members of the Exchange. The Board by such resolution may designate one or more governors who are regular, options principal, associate or allied members of the Exchange as alternates for the members of such committee who are regular, options principal, associate or allied members of the Exchange and one or more other governors as alternates for the members of such committee who are not regular, options principal, associate or allied members of the Exchange. Governors so designated may replace any absent member or members for whom they are alternates at any meeting of such committee.]

Meetings

No change.

Written Consent to Action Without Meeting

No change.

Quorum

No change.

Contracts of Employment

No change.

Selection of Chairman

The Board shall, by the affirmative vote of a majority of the entire Board, elect the Chief Executive Officer of the Exchange, who shall be the Chairman of the Board, to serve for such period of time as the Board may determine, and the Board shall, by like vote, fix his compensation.

At its annual meeting the Board shall elect from among its members who are regular[,] or options principal[, associate or allied] members of the Exchange[, one or more] a Vice-[Chairmen] *Chairman* of the Board to serve until the next annual meeting of the Board and until his successor has been elected and takes office.

[Selection of general counsel]

Subject to the approval of the Board by the affirmative vote of a majority of the governors then in office, the Chairman shall appoint independent general counsel for the Exchange, who shall consult with and advise the Board and the officers of the Exchange with respect to legal matters pertaining to the Exchange, and the Chairman, subject to like approval of the Board, may terminate such appointment. The Board shall fix the compensation of such counsel.

Trial of members, member organizations and approved persons] Trial of Members, Member Organizations and Approved Persons

No change.

Transactions in Exchange [securities] Securities

No change.

Penalties

No change.

Contracts

No change.

Admission of [securities] Securities

The Board shall establish standards and requirements with respect to the listing or admission to unlisted trading on the Exchange of securities, contracts in securities "when, as and if issued" or "when distributed" and rights, warrants and similar privileges appertaining to securities, and with respect to the continued listing or admission to unlisted trading thereof or the suspension of trading therein or removal of the same from listing or unlisted trading. The Board may grant to the Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve any such securities, contracts in securities, rights, warrants or privileges, for original listing or admission to unlisted trading upon the Exchange and to admit the same to dealings on an "issued", "when issued" or "when distributed" basis; to list or admit to dealings on an "issued", "when issued" or "when distributed" basis securities of an issuer having securities already listed or admitted to unlisted trading on the Exchange, including certificates of deposit, rights to subscribe, and other securities issued in exchange for or growing out of such securities; to suspend dealings in such securities at any time, and without notice, when such action is deemed appropriate and to remove the same from listing or from unlisted trading; to make such certifications

or file such notices with respect to the listing and registration of any such securities or the suspension of dealings or removal thereof from listing or unlisted trading as may be required by the Securities Exchange Act of 1934 and rules and regulations issued thereunder; and to take such other action as may be necessary or appropriate in connection with the listing, suspension of trading or removal from listing or unlisted trading of any such securities. Any company directly affected by a decision of the Chairman or such duly authorized officer of the Exchange with respect to the listing of its securities or the removal thereof from listing or unlisted trading, may appeal such decision to the Board. A committee designated by the Board shall conduct a hearing with respect to any such appeal and shall make recommendations to the Board with respect thereto. The decision of the Board with respect to any such appeal shall be final and conclusive, except that the Board under its general power of delegation may authorize [the Executive Committee] a *committee* to consider any or all such appeals and in such case the decision of the [Executive Committee] *committee* with respect thereto shall be final and conclusive.

Corners

No change.

Invitation to [non-governors] *Non-Governors*

No change.

Members, [member organizations and approved persons] *Member Organizations and Approved Persons*

The Board shall have general supervision over members and member organizations, and shall have general supervision over approved persons in connection with their conduct of the business of member organizations. The Board may examine into and regulate the conduct and financial condition of members, member organizations and approved persons. It shall have supervision over and may adopt such rules as it may deem necessary or proper with respect to the formation of member organizations, the continuance thereof, the finances and capital requirements thereof, the types, terms, conditions and issuance of securities by member organizations and trading in such securities, the interest of members and other persons in member organizations, the partners, officers, directors, trustees, stockholders and employees of members and member organizations, the offices of members and member organizations, the business connections of members and member organizations, and their association with or domination by or over any organizations or persons engaged in the securities business. The Board, to the extent not inconsistent with the Securities Exchange Act of 1934, as amended, shall have supervision over all matters relating to the collection, dissemination and use of quotations and of reports of prices on the Exchange and may grant to the Chairman, or to such officer or officers of the Exchange as he may designate, the authority to approve or disapprove any application for ticker or quotation service to any non-member. The Board may grant to the

Chairman, or such officer or officers of the Exchange as he may designate, the authority to approve or disapprove of any connection or means of communication with the Floor and to require at any time the discontinuance of any such connection or means of communication if such connection or means of communication has been or is being used to facilitate any violation of the Securities Exchange Act of 1934, as amended, or rules thereunder, the Exchange Constitution or its Rules, or just and equitable principles of trade. The Board shall establish standards and requirements for the registration of [regular members as] specialists or odd-lot dealers in securities dealt in on the Exchange, and may grant to a committee or committees, the authority to (i) approve the registration of [regular members as] specialists or odd-lot dealers, (ii) revoke or suspend any such registration at any time, (iii) allocate to a registered specialist or odd-lot dealer any security dealt in on the Exchange, and (iv) revoke any such allocation, temporarily or permanently, at any time.

The Board may by rule provide for facilities and establish the conditions under which members may transmit orders electronically from the Floor of the Exchange to other markets and receive orders transmitted electronically to the Floor of the Exchange from other markets for the purchase or sale of securities traded on the Exchange.

Personal [interest] *Interest*

No change.

Interpretation

No change.

Subsidiaries

No change.

Group [hospitalization plan] *Hospitalization Plan*

No change.

*Article II. Government and Administration**Sec. [03] 04. Officers of the Exchange*

Chairman

(a) The Chairman of the Board shall be the Chief Executive Officer of the Exchange and shall have the care of all the interests of the Exchange. He shall be responsible to the Board for the management and administration of the affairs of the Exchange. He shall be the official representative of the Exchange and its spokesman in all public matters. He shall, during his incumbency, be a member and the presiding officer of the Board of Governors. [and ex-officio a member of the Executive Committee and a member of all committees authorized by the Board of Governors.] He shall preside at meetings of the members of the Exchange, or may designate the Vice-Chairman to preside at any such meetings.

The Chairman shall have no affiliation with any member organization nor any other business interest during his incumbency. By his acceptance of the office of Chairman he shall be deemed to have agreed to uphold the Constitution of the Exchange.

The Chairman may call special meetings of the [regular members of the Exchange and of

the] Board of Governors. He shall call special meetings of the [regular members of the Exchange upon the direction of the Board or upon the written request of 50 regular members, and special meetings of the] Board upon the written request of [four] *three* governors.

The Chairman shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine, the books, papers and records of any member, his employees, his member organization, or any partner, director, employee or approved person of his member organization, and the Chairman shall have power to order the production of such books, papers and records for examination either by him or by any officers, employees or representatives of the Exchange designated by him. The Chairman shall also have power to require any member to appear and testify before him or before any officers, employees or representatives of the Exchange designated by him, or to require any member to cause any of his employees, or any of the partners, directors, employees or approved persons of his member organization, to appear and testify before the Chairman or before any officers, employees or representatives of the Exchange designated by him, as to any matter or transaction pertaining to the business of such member, his employees, his member organization or of any partner, director, employee or approved person of his member organization, or to require any approved person to cause any of his or its employees to appear and testify before the Chairman or before any officers, employees or representatives of the Exchange designated by him as to any matter or transaction pertaining to the business of such approved person or of any employee or such approved person.

Following each annual election the Chairman shall make such appointments, in the manner provided for herein, as may be required by the Constitution and shall fill any vacancy which occurs in any office to which he has made an appointment. Pending approval by the Board such appointments may be made ad interim.

Subject to the approval of the Board by the affirmative vote of a majority of the entire Board, the Chairman shall appoint and may remove the members of [the Executive Committee and any other committees] *any committee* of the Board. Subject to the approval of the Board by the affirmative vote of a majority of the governors present at any meeting of the Board, the Chairman shall appoint and may remove the members of other committees which may from time to time be authorized by the Board to consider matters pertaining to the administration of the Exchange and to the rules and policies of the Exchange concerning members, member organizations and approved persons. The Chairman shall fill all vacancies in [the Executive Committee and in said other] *said* committees and may make any such appointment ad interim until the next regular meeting of the Board.

Subject to the approval of the Board, the Chairman may appoint special committees to advise or consult with him or other officers of the Exchange, or to consider matters

pertaining to the administration of the Exchange, and such committees appointed by the Chairman shall have such powers as may be delegated to them by the Board.

Subject to approval by the affirmative vote of a majority of the entire Board, the Chairman may appoint [an Executive Vice-Chairman,] a President, one or more Vice-Presidents and such other officers of the Exchange (except the Vice-Chairman [or Vice-Chairmen] of the Board who [are] *is* appointed from the [Exchange members] *Floor Governors* on the Board), as he may from time to time determine are required for the efficient management and operation of the Exchange, and subject to like approval of the Board he shall appoint the Treasurer and the Secretary and shall fix the duties, responsibilities, terms and conditions of employment of such officers and, subject to the approval of the Board, he may terminate their employment at any time.

The Chairman shall have power to appoint, dismiss and fix the salaries and wages of all other employees of the Exchange, including such expert or professional advisers as he may deem advisable. He shall determine the number and duties of all employees. He may require that officers, appointees or employees of the Exchange give good and sufficient bonds for the faithful performance of their duties.

All salaried officers and employees of the Exchange shall be under the direction of and responsible to the Chairman.

The Chairman, or such other officer as he may designate, shall prepare and present to the Board periodic reports concerning the finances, income and expenses of the Exchange, and prior to the beginning of each fiscal year of the Exchange shall present to the Board an estimate of the income of the Exchange and recommendations as to appropriations for expenses for such fiscal year. The Chairman may at any time recommend additional appropriations or the increase or decrease of any appropriations made by the Board and shall make reports and recommendations to the Board as to the financial policy of the Exchange.

In the case of the absence or inability to act of the Chairman, such other person as the Board of Governors may designate shall assume all the functions and discharge all the duties of the Chairman, other than those which shall devolve upon the Vice-Chairman [or Vice-Chairmen] as provided in subsection 3(b) of this Article II. In the absence of such designation by the Board, [the Executive Vice-Chairman, if there be one, or if there is no Executive Vice-Chairman, or in his absence or inability to act,] the President, if there be one, or if there is no President, or in his absence or inability to act, the senior ranking Vice-President available shall assume all such functions and discharge all such duties of the Chairman. In case a vacancy shall occur in the office of Chairman, the Board, by the affirmative vote of a majority of the governors then in office, shall fill such vacancy.

The Chairman may vote the shares of stock or other securities of any corporation, association or other entity which may at any time be owned by the Exchange, may execute any shareholders' or other consents in

respect thereof and may in his discretion delegate such powers by executing Proxies or otherwise, on behalf of the Exchange. The Board of Governors from time to time may confer like powers upon any other person or persons.

Vice-Chairman

(b) [Each] *The* Vice-Chairman of the Board of Governors [(other than the Executive Vice-Chairman)] shall be a regular[,] or options principal[, associate or allied] member of the Exchange. [If there shall be two Vice-Chairmen, then one shall be a governor who meets the qualifications described in subsection (a)(1)(ii) of Section 1 of this Article II, and the other shall be a governor who meets the qualifications described in subsection (a)(1)(iv).] In the case of the absence or inability to act of the Chairman, or in case of a vacancy in the office of Chairman, the Vice-Chairman of the Board shall exercise the powers and discharge the duties of the Chairman in calling and presiding at meetings of the Board of Governors. [and of members of the Exchange. If there shall be two] *The* Vice-Chairman[, then unless the Board shall otherwise designate, the foregoing duty shall devolve first upon the one meeting the qualifications described in subsection (a)(1)(ii) of Section 1 of this Article, and in the case of his absence or inability to act, then upon the other. The Vice-Chairman or Vice-Chairmen] shall have such other functions and responsibilities as the Board of Governors may from time to time assign to him.

In the absence or inability to act of both the Chairman and the Vice-Chairman[(or each of the Vice-Chairmen)], the members of the Board of Governors who are regular, options principal, associate or allied members of the Exchange, and in such order of priority as the Board may designate, or, in the absence of such designation, the senior available member in service on the Board of Governors who is a regular, options principal, associate or allied member of the Exchange, shall exercise the powers and discharge the duties of the Chairman in calling and presiding at meetings of the Board of Governors. [and of members of the Exchange.]

In case a vacancy shall occur in the office of Vice-Chairman, the Board shall fill such vacancy by the election to such office of a governor who is a [regular, options principal, associate or allied member of the Exchange and, if there is more than one Vice-Chairman, who meets the further qualification specified above which is applicable to the vacant position] *Floor Governor*.

Treasurer

No change.

Secretary

No change.

Article II. Government and Administration Sec. [04] 05. Committees

[Executive Committee] Examination, Investigation, etc.

[(a) Subject to the approval of the Board, by the affirmative vote of a majority of the entire Board, the Chairman shall appoint an Executive Committee to be composed of seven governors as follows: (i) the Chairman

of the Board, (ii) four regular, options principal, associate or allied member governors of whom two shall be principally engaged in office functions and two shall be members who spend a substantial part of their time on the Floor of the Exchange; provided, however, that among the four shall be included any member governor who is a Vice-Chairman of the Board, and (iii) two public governors. The members of this Committee other than the Chairman and the Vice-Chairman or Vice-Chairmen, shall serve at the pleasure of the Board. The Chairman of the Board shall serve as chairman of the Executive Committee.

The Executive Committee shall consult with and assist the Chairman and the other officers and employees of the Exchange in the administration and interpretation of the provisions of the Constitution, the rules of the Exchange and the policies promulgated by the Board. Subject to the provisions of the Constitution and applicable law, between meetings of the Board of Governors the Executive Committee shall have the authority to exercise all of the powers of the Board except to the extent that the Board may from time to time by resolution specifically reserve any such power or powers, but the Executive Committee shall have no power to change rules or policies adopted by the Board or to make new rules or policies.

The Chairman may designate an officer or employee of the Exchange to act as secretary to the Executive Committee, and the person so designated shall keep records of the proceedings of the Committee and perform such other functions or duties as the Committee may from time to time determine.

The Executive Committee, or any sub-committee thereof, shall have such other duties and may be delegated such other powers as the Board may from time to time determine.

Examination, investigation, etc.

(b)(a) Any committee authorized by the Board or by the Constitution shall have power to examine, or to authorize any officers, employees or representatives of the Exchange to examine the books, papers and records of any member, his employees, his member organization, or any partner, director, employee or approved person of his member organization, and any such committee shall have power to order the production of such books, papers and records for examination either by such committee or by any officers, employees or representatives of the Exchange designated by such committee. Any such committee shall also have power to require any member to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such member, his employees, his member organization or of any partner, director, employee or approved person of his member organization, or to require any

approved person to cause any of his or its employees to appear and testify before such committee or before any officers, employees or representatives of the Exchange designated by such committee, as to any matter or transaction pertaining to the business of such approved person or of any employee of such approved person.

Additional [committee members] *Committee Members*

(c)(b) The chairman of any committee authorized by the Board, other than a committee to which the Board has delegated powers vested in it pursuant to the Constitution or applicable law, shall, with the approval of the Chairman, be empowered to appoint any member associated with any member organization to serve on said committee for such time as the chairman of such committee, with the approval of the Chairman, may decide. Such appointees shall serve as additional members of the committee to which they may be appointed and shall be entitled to vote.

[Indemnification shall be accorded by the Exchange, and related expenses may be advanced, in respect of members of any committee authorized by the Constitution or by the Board of Governors, Floor Officials, Arbitrators, Trustees of the Gratuity Fund, Trustees of any Special Trust Fund, employees of the Exchange and directors, officers and employees of any corporation a majority of the stock of which is held by the Exchange to the same extent as provided by law in respect of governors and officers. The foregoing right of indemnification shall not affect any rights to indemnification to which persons other than governors and officers of the Exchange may be entitled by contract or otherwise under law.]

Committee [rules] *Rules*

(d) The Executive Committee and any(c) Any committee authorized by the Board shall have power, subject to the provisions of the Constitution and applicable law, to make and require the observance of rules, regulations, requirements, rulings and orders pertaining to matters within its jurisdiction. In the absence of a designation by the Board, any committee authorized by the Board shall have power to appoint a member of such committee as its chairman.

Committee [procedure] *Procedure*

(e)(d) Except as herein otherwise prescribed, [the Executive Committee and] each committee authorized by the Board shall determine the manner and form in which its proceedings shall be conducted and shall make such regulations for its government as it shall deem proper and may act at a meeting, or without a meeting, and by a majority of its members or by such other vote of its members as such committee by a majority of its existing members may by rule determine, subject always to the control and supervision of the Board of Governors. No member of a committee shall participate in the deliberations of such committee, or in the determination by such committee, with respect to a matter in which he is personally interested. Any one or more members of any committee may participate in a meeting of such committee by means of a conference

telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at the meeting.

Current Section 5 (Indemnification) is deleted in its entirety

Article II. Government and Administration [Sec. 05. Indemnification] *Section 06. Amex* *Adjudicatory Council*

Appointment and Authority

(a) There shall be established an Amex Adjudicatory Council (the "Council") which, subject to the Board's discretionary right of review, shall have authority to act for the Board with respect to any appeal or review of a disciplinary proceeding, a statutory disqualification proceeding, or a membership proceeding; any review of a written stipulation of facts and consent to penalty; the exercise of any exemptive authority; and such other proceedings or actions authorized by the rules of the Exchange.

Number of Members and Qualifications

(b) The Council shall consist of six individuals, all of whom shall be nominated by the Amex Nominating Committee and elected by the regular and options principal members voting together as a single class. Three of the six Council members shall be Floor Governors ("Floor Council Members"). The other three Council members shall be Public Governors ("Public Council Members").

As soon as practicable following the initial election of members, the Council shall elect a Chair and a Vice-Chair from among its members. The Chair and Vice-Chair shall have such powers and duties as may be determined from time to time by the Council.

Term of Office

(c) Except as otherwise provided in this subsection, each Council member shall hold office for a term of two years or until a successor is elected, except in the event of earlier termination from office by reason of death, resignation, removal, disqualification, or other reason.

The Council members shall be divided into two classes. The first class shall consist of two Floor Council Members and one Public Council Member. The second class shall consist of one Floor Council Member and two Public Council Members. The initial terms of the Council members in the first and second classes shall terminate in 1999 and 2000, respectively, upon the election of their successors. Subsequent to the initial terms of office, each class shall be elected for two-year terms and shall hold office until their successors have been elected.

Beginning in 2000, no Council member may serve more than two consecutive terms, except that if a Council member is appointed to fill a term of less than one year, such member may serve up to two consecutive terms following the expiration of such member's initial term.

Resignation

(d) A member of the Council may resign at any time upon written notice to the Board. Any such resignation shall take effect at the

time specified therein, or if the time is not specified, upon receipt thereof, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective.

Removal

(e) Any or all of the members of the Council may be removed from office at any time for refusal, failure, neglect, or inability to discharge the duties of such office by a majority vote of the Board.

Disqualification

(f) Notwithstanding subsection (c), the term of office of a Council member shall terminate immediately upon a determination by the Board, by a majority vote of the entire Board, that the Council member no longer fits the classification (Floor or Public Council Member) for which the member was elected.

Filling of Vacancies

(g) If a position on the Council becomes vacant, whether because of death, disability, disqualification, removal or resignation, the board of directors of The Amex Corporation shall appoint a person within the same classification (Floor or Public Council Member) to fill the vacancy until the next annual election of Council members.

In the event that a member of the Council is precluded from participating in the Council's consideration of a particular matter due to a conflict of interest, the board of directors of The Amex Corporation shall appoint a person within the same classification for the position as provided in subsection (b) of this Section to serve as a substitute for such Council member with respect to the particular matter. In the event that a person fitting the relevant classification is not available to serve as a substitute, the Board of Directors may appoint a person who would be qualified to serve as a governor within such classification.

Quorum and Voting

(h) At all meetings of the Council, a quorum for the transaction of business shall consist of a majority of the Council, including at least two Public Council Members. In the absence of a quorum, a majority of the members present may adjourn the meeting until a quorum is present. In the event of a tie vote, the decision that was the subject of the Council's review shall stand.

Meetings

(i) The members of the Council may participate in a meeting through the use of a conference telephone or similar communications equipment by means of which all persons participating in the meeting may hear one another, and such participation in a meeting shall constitute presence in person at that meeting for all purposes.

Article III. Reserved [Elections Nominations]

Current Article III is deleted in its entirety.

Article IV. Membership

Sec. 01. Admission to Membership

Number of [regular memberships] *Regular Memberships*

(a) (1) Regular membership—[The regular memberships shall consist of 675] *There shall be 661 regular memberships* [Any change] in the Exchange. The number of regular memberships shall be [made by an amendment of the Constitution] *increased only if the Board of Governors requests The Amex Corporation to issue additional regular memberships. Any such issuance of additional regular memberships shall require the approval of a majority of the regular and options principal members voting together as a single class at a meeting called for the purpose of considering the request that new regular memberships be issued.*

Requirements

(2) Every applicant for regular membership must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. An application for regular membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to regular membership unless his application is approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV. *Nothing in the Constitution shall be construed to prohibit NASD Market Holding Company from holding a regular membership.*

Signing Constitution

(3) No person whose application for regular membership has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he pledges himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. *In addition, any regular member or lessee of a regular membership, by exercising any of the rights inherent in a regular trading right, shall be deemed to have pledged himself, as though he had signed the Constitution, to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith.*

[Number of options principal memberships] *Number of Options Principal Memberships*

(b)(1) Options principal membership—There shall be 203 options principal memberships in the Exchange. [Any change in the] *The number of options principal memberships shall be [made by an amendment of the Constitution] increased only if the Board of Governors requests The Amex Corporation to issue additional options principal memberships. Any such issuance of additional options principal memberships shall require the approval of a*

majority of the regular and options principal members voting together as a single class at a meeting called for the purpose of considering the request that additional options principal memberships be issued.

Requirements

(2) An applicant for options principal membership must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. An application for options principal membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. Such applicant must agree that his primary occupation will be the transaction of business in options as principal on the Floor of the Exchange. No person may be admitted to options principal membership unless his application is approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV. *Nothing in this Constitution shall be construed to prohibit NASD Market Holding Company from holding an options principal membership.*

Signing Constitution

(3) No person whose application for options principal membership has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he pledges himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. *In addition, any [Trading Privileges*

(4) An options principal member or lessee of an options principal membership, by exercising any of the rights inherent in an options principal trading right, shall be deemed to have pledged himself, as though he had signed the Constitution, to abide by the Constitution as the same has been or shall be from time to time amended and by all rules and regulations adopted pursuant to the Constitution and all regulations, orders, directives or decisions adopted or made in accordance therewith. [may execute on the Floor of the Exchange transactions in options and other derivative products initiated by him for his own account and may give orders in options and other derivative products for his own account to regular members for execution. Such member may not execute agency transactions on the Floor either for customers or for regular, associate or allied members or other options principal members, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products) and may not accept any orders from his member organization for execution.

Derivative products shall include, in addition to standardized options, other securities which are issued by the Options Clearing Corporation or another limited purpose entity or trust and which are based solely on the performance of an index or portfolio of other publicly traded securities.

Notwithstanding the foregoing, derivative products shall not include warrants of any type or closed-end mutual funds.]

Rights

[(5)](4) No change.

Directory

[(6)](5) No change.

Allied [membership] *Membership*

(c) Allied membership—Any person not a regular, options principal or associate member of the Exchange, shall upon approval by the Exchange become an allied member of the Exchange by pledging himself to abide by the Constitution as it has been or shall be from time to time amended, and by all rules adopted pursuant to the Constitution, and by becoming either:

[(i)](1) a general partner in a regular, options principal or associate member firm or an employee who controls such member firm;

[(ii)](2) an employee of a regular, options principal or associate member corporation who is either: (1) a person who controls such corporation, or (2) a principal executive officer of such member corporation;

[(iii)](3) a trustee of a regular or options principal member organization which is a pension plan or an employee who controls such organization; or

[(iv)](4) an employee of any other entity permitted by the Exchange to become a member organization who controls such organization.

No further change.

Associate [membership] *Membership*

(d) Associate membership—The number of associate members shall be such as may be determined by the Board of Governors from time to time. Any person not less than the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business either as a partner of a firm or as a director or executive officer of a corporation may make application for associate membership.

An application for associate membership shall be in writing and shall be in such form, and contain such information, as the Exchange may from time to time prescribe. No person may be admitted to associate membership unless his application is approved by the Exchange, in accordance with the provisions of Section 1(g) of this Article IV. Any person admitted to associate membership *in the American Stock Exchange, Inc.* prior to September 4, 1962, as an individual or as a partner of a firm shall remain an associate member only so long as he is actively engaged in the business of buying and selling securities as broker or dealer. Any person admitted to associate membership *in the Exchange or in the American Stock Exchange, Inc.* after September 4, 1962, as a partner of a firm shall remain an associate member only so long as he remains a partner of such firm or of another firm continuing the business of the first firm or a director or executive officer of a corporation continuing the business of the first firm. Any person admitted to associate membership *in the Exchange or in the American Stock Exchange, Inc.*, whether before or after September 4, 1962, as a

director or executive officer of a corporation shall remain an associate member only so long as he remains a director or executive officer of such corporation or of another corporation continuing the business of the first corporation.

No further change.

Visiting Floor

No change.

Exchange [not liable to members or member organizations] *Liability*

[(e) The Exchange shall not be liable for any damages sustained by a member or a member organization growing out of the use or enjoyment by such member or member organization of the facilities afforded by the Exchange to members for the conduct of their business, except](e)

Except insofar as the Board may specifically provide by rule with respect to Exchange facilities which implement the electronic transmission of orders for the purchase or sale of securities traded on the Exchange to the Floor of the Exchange or between the Floor of the Exchange and other markets, neither the Exchange nor any of its affiliates nor any of its or their respective officers, governors, committee members, employees or agents shall be liable to a member of the Exchange, a member organization, or a person associated with a member or a member organization for any loss, expense, damages or claims that arise out of the use or enjoyment of the facilities or services afforded by the Exchange, any interruption in or failure or unavailability of any such facilities or services, or any action taken or omitted to be taken in respect to the business of the Exchange except to the extent such loss, expense, damages or claims are attributable to the willful misconduct, gross negligence, bad faith or fraudulent or criminal acts of the Exchange or its officers, employees or agent acting within the scope of their authority.[.]

[Initiation fee] Initiation Fee

(f) No change.

Approval of [membership matters] *Membership Matters*

(g) Whenever pursuant to any of the provisions of this Section 1, the approval, consent, permission, authorization or waiver of the Exchange is required, such approval, consent, permission, authorization or waiver may be granted by the Chairman or by any officer or employee of the Exchange to whom the Chairman has delegated such authority; except that no person who has been expelled from the Exchange or has been declared ineligible for reinstatement pursuant to Section 5(c) of this Article, may be readmitted as a regular, options principal, allied or associate member unless approved by the Board of Governors. If the Chairman or any such officer or employee shall refuse to grant such approval, consent, permission, authorization or waiver, the person or persons affected thereby shall have the right to a hearing on the matter [either (i)] before a committee authorized by the Board[, or (ii) before a panel selected in accordance with the provisions of Section 1(b) of Article V, as the Chairman, or such officer designated by him for the purpose, shall determine]. Such

committee [or panel, as the case may be,] shall have the authority to affirm or reverse the decision of the Chairman or of such duly authorized officer or employee, or to modify such decision or impose such conditions as it shall deem appropriate, and the decision of the committee [or panel] shall be final and conclusive.[, unless within twenty days after such decision is rendered the person or persons affected thereby shall file a written notice with the Secretary of the Exchange appealing such decision to the Board. The Board may consider any such appeal or, in its discretion, under its general powers of delegation, may authorize the Executive Committee to consider the same. The determination of the Board or of the Executive Committee, as the case may be, with respect to any such appeal shall be final and conclusive.]

[Options Trading Permits]

[(i)] Deleted.

Limited Trading Permits

[(j)](h) (1) There shall be [36] a *maximum of ten* limited trading permits [which may be issued to qualified individuals or member organizations with approved nominees (such individuals or the nominees of such organizations being for the purposes of this subsection (j) referred to as limited trading permit holders), as provided in a plan approved by the regular members of the Exchange providing for the offering of such limited trading permits (referred to for the purposes of this subsection (j) as the "Plan")]. Limited trading permits shall expire on May 14 in each year unless renewed by the holder thereof for such fee as may be established from time to time by the Board, which fee shall be not less than \$2,000 nor more than \$5,000 per annum.

Requirements for Issuance

(2) A limited trading permit holder must: [(a)](i) be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business; [(b)](ii) agree that his primary occupation will be the transaction of business on the Floor of the Exchange in his capacity as a permit holder; and [(c)](iii) meet such other qualifications as may be specified in the [Plan or established by the] *plan approved by the regular members of the Exchange providing for the offering of such limited trading permits*. Applications must be approved by the Exchange in accordance with the provisions of Section 1(g) of this Article IV.

No person whose application for a permit has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he shall pledge himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions or decisions adopted or made in accordance therewith.

Rights and Obligations

(3) A limited trading permit holder may execute on the Floor of the Exchange transactions in options and other derivative products initiated by him for his own account and may give orders in options and

other derivative products for his own account to regular members for execution provided, however, that a limited trading permit holder may not trade in individual stock options listed on the Exchange.

A limited trading permit holder may not execute agency transactions on the Floor either for customers or for regular, associate, allied or options principal members or other permit holders, may not be registered as a specialist, may not execute on the Exchange any orders, whether as agent or principal, in stocks, warrants, bonds or other securities (except principal transactions in options and other derivative products as described above) and may not accept any orders from his member organization for execution.

Derivative products shall have the meaning described in [the second paragraph of subsection (b)(4) of this Section.] *Section 3(d) of Article I.*

A limited trading permit holder shall not be entitled to vote in any election or on any amendment to the Constitution or on any other matter, to participate in the Gratuities Fund provided for in Article IX of the Constitution, to share in any distribution of the assets or funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution, or winding up of the affairs of the Exchange, or to serve as a Governor of the Exchange. Except as provided above, a limited trading permit holder shall be considered a member of the Exchange for all purposes, and shall be subject to such obligations and duties (including the payment of dues, initiation fees and other fees and charges of the Exchange) as may be imposed on members by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith. (To implement this provision, all provisions of the Constitution and the rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith which by their terms are applicable to regular and options principal members shall be deemed to also apply to and include limited trading permit holders unless the application thereof shall be inconsistent with the specific provisions of this subsection [(j)](h) or unless the context shall otherwise require.)

A limited trading permit may be transferred in the same manner and subject to the same terms and conditions as those applicable to the transfer of an options principal membership. Without limiting the foregoing, a limited trading permit may be leased pursuant to a special transfer agreement as provided in Section 4(b) of this Article IV. The transferee of a limited trading permit shall be subject to payment of an initiation fee equal to that payable by transferees of an options principal membership.

An individual limited trading permit holder who is associated with a broker-dealer shall qualify such broker-dealer as a member organization of the Exchange. If the limited trading permit pursuant to which a member organization is thus qualified shall expire as provided in paragraph (1) of this subsection [(j)](h) such organization shall cease to be a

member organization of the Exchange, unless a person who is a regular, associate or options principal member becomes associated therewith. Upon the expiration of a limited trading permit as provided in paragraph (1) of this subsection [(j)](h), all rights and privileges granted pursuant hereto shall terminate.

Class C Trading Rights

(i) (1) *For a period of five years beginning on the closing date of the Transaction Agreement, Class C Trading Rights may be issued to qualified individuals or organizations who are instrumental in obtaining new listings of securities admitted to dealings on the Exchange that are judged by the Exchange to constitute demonstrable product. The holder of a Class C Trading Right may be registered as a specialist in any such newly listed security, but may not be registered as a specialist in any other securities on the Exchange and may not operate a joint book with a regular member. The Board of Governors shall determine when and to whom to issue Class C Trading Rights and shall further determine the fees, dues, and other charges applicable to Class C Trading Right holders. Each Class C Trading Right shall expire three years after the date of its issuance, or at the end of the five year period referred to above, whichever first occurs, and no more than 25 Class C Trading Rights shall be outstanding at any time.*

A Class C Trading Right shall not entitle the holder (i) to vote in any election, (ii) to participate in the Gratuities Fund provided for in Article IX of the Constitution, (iii) to share in any distribution of the assets or funds of the Exchange in the event of any voluntary or involuntary final liquidation, dissolution, or winding up of the affairs of the Exchange, or (iv) to serve as a Governor of the Exchange. Except as provided above, a Class C Trading Right holder shall be considered a member of the Exchange for all purposes, and shall be subject to such obligations and duties as may be imposed on members by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith. (To implement this provision, all provisions of the Constitution and the rules, regulations, requirements, orders, directions and decisions adopted or made in accordance therewith which by their terms are applicable to regular and options principal members shall be deemed to also apply to and include Class C Trading Right holders unless the application thereof shall be inconsistent with the specific provisions of this subsection (i) or unless the context shall otherwise require.)

A Class C Trading Right may not be sold, leased or otherwise transferred, provided, however, that subject to the approval of such transfer by the Exchange, a Class C Trading Right may be sold or otherwise transferred in connection with a business combination, reorganization or other transfer of all or substantially all of the assets of one member organization to another. A specialist holding a Class C Trading Right who then becomes a regular member shall be deemed to have

continued his registration as specialist in the securities allocated to him without any need for reallocation thereof.

(2) *A Class C Trading Right holder must be at least the minimum age of majority required to be responsible for his contracts in each jurisdiction in which he conducts business. No person whose application for a Class C Trading Permit has been approved by the Exchange shall be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he shall pledge himself to abide by the Constitution as the same has been or shall be from time to time amended and by all rules, regulations, requirements, orders, directions or decisions adopted or made in accordance therewith.*

New Trading Rights

(j) *The Board of Governors shall not authorize the issuance of any new forms of trading privileges not provided for in this Constitution, or grant materially new rights to the holders of existing privileges, without first obtaining the consent of The Amex Corporation in accordance with the terms of its amended and restated certificate of incorporation.*

Article IV. Membership

Sec. 02. Members, Member Organizations and Membership Owners

Approval of [organizations] Organizations

(a) No change.

Approval of [members and persons associated with member organizations] Members and Persons Associated with Member Organizations

(b) No change.

Member [limited to one member organization] Limited to One Member Organization

(c) No change.

Conditions of [approval of member organizations] Approval of Member Organizations

(d) No change.

(e) No change.

Withdrawal of [approval of member organizations] Approval of Member Organizations

(f) No change.

Approval [revocable] Revocable

(g) No change.

Withdrawal of [approval of certain stockholders] Approval of Certain Stockholders

(h) No change.

Non-[voting common stock] Voting Common Stock

(i) No change.

Approved [persons] Persons

(j) No change.

Location

(k) No change.

Registered [address] Address

(l) No change.

Offices	Contracts [pending transfer] <i>Pending Transfer</i>	<i>Article IV. Membership</i>
(m) No change.	(d) No change.	<i>Sec. 05. Reinstatement</i>
Employees and [officers] <i>Officers</i>	Closing [contracts] <i>Contracts</i>	Reinstatement by Board
(n) No change.	No change.	(a) Every application for reinstatement by a member, member organization or owner of a membership suspended pursuant to Section 3 of Article V shall be referred to [the Executive Committee, or such other] <i>such</i> committee as may be appointed by the Board of Governors for such purpose. A hearing shall be held by the committee with respect to such application and a record shall be kept. No application for reinstatement shall be considered with respect to a member, member organization or owner of a membership as to whom dues, fines, assessments or charges of the Exchange, or contributions to the Gratuities Fund (as provided in Article IX) are due and unpaid. If the committee shall determine to reinstate a member, member organization or owner of a membership suspended under the provisions of Section 3 of Article V, it may impose such conditions as it shall deem appropriate. If the committee shall determine not to reinstate such suspended member, member organization or owner of a membership, its determination shall be supported by a statement setting forth the specific grounds on which the application for reinstatement is denied.
Written [notification of proposed acts] <i>Notification of Proposed Acts</i>	Transfer by Board	Reinstatement by Chairman
(o) No change.	No change.	(b) Notwithstanding the foregoing provisions of this Section 5, whenever it shall appear to the Chairman:
Assignment of [membership or interest in member organization] <i>Membership or Interest in Member Organization</i>	Distribution of [proceeds] <i>Proceeds</i>	(1) that a member or member organization has been suspended pursuant to subsection (a) or (b) of Section 3 of Article V, and that the conditions resulting in such suspension no longer exist or the suspension of such member or member organization by another registered national securities exchange or national securities association has been terminated by such other exchange or securities association; and
(p) No change.	(e) No change.	(2) that prompt reinstatement is advisable to avoid substantial loss to the public, to the Exchange or to the member or member organizations; and
Submission of [information] <i>Information</i> as to [proposed changes] <i>Proposed Changes</i>	Exchange [charges] <i>Charges</i>	(3) that it is not practicable to convene a meeting of the Board of Governors immediately to act in the matter;
(q) No change.	No change.	the Chairman may announce to the Exchange the reinstatement of such member or member organization. Any reinstatement pursuant to this subsection (b) shall be effective immediately, but shall be submitted to the Board of Governors as soon as reasonably practicable and unless approved by the Board such reinstatement shall forthwith terminate.
Retirement from [member organization] <i>Member Organization</i>	Claims of [regular or options principal members or member organizations] <i>Regular or Options Principal Members or Member Organizations</i>	Denial for [irregularities] <i>Irregularities</i>
(r) No change.	No change.	(c) Whenever an Exchange Disciplinary Panel shall determine that a member, member organization or owner of a membership suspended under the provisions of Section 3 of Article V, has been guilty of irregularities or unbusinesslike dealings, it may declare such member, member organization or owner of a membership ineligible for reinstatement. Any such determination shall be made only after the suspended member, member organization or owner of a membership has been given notice
Number of [partners] <i>Partners</i>	Floor [contracts] <i>Contracts</i>	
(s) No change.	[(A)](1) Claims arising in the ordinary course of business from Exchange Contracts for the purchase, sale, borrowing or loaning of securities entered into on the Floor of the Exchange.	
Suspended [members] <i>Members</i> , etc.	Other [ordinary business contracts] <i>Ordinary Business Contracts</i>	
(t) No change.	[(B)](2) Claims arising from Exchange Contracts entered into in the ordinary course of business other than those included in the preceding paragraph.	
Continuing [relationship of member or member organization with suspended member or person expelled] <i>Relationship of Member or Member Organization with Suspended Member or Person Expelled</i> from Exchange	Other [business contracts] <i>Business Contracts</i>	
(u) No change.	[(C)](3) Claims arising from Exchange Contracts other than those included in the two preceding paragraphs, except those made for nonbusiness purposes.	
Required [vote] <i>Vote</i> of Exchange in [certain cases] <i>Certain Cases</i>	Contracts [under rules of another exchange] <i>Under Rules of Another Exchange</i>	
(v) No change.	[(D)](4) Claims arising from members' contracts made subject to the rules of another exchange.	
<i>Article IV. Membership</i>	Pro [rata distribution] <i>Rata Distribution</i>	
<i>Sec. 03. Member Representation</i>	No change.	
Governor and Exchange Official Representatives	Unmatured [contracts] <i>Contracts</i>	
(a) No change.	No change.	
Temporary [representatives] <i>Representatives</i>	Contingent [claims] <i>Claims</i>	
(b) No change.	No change.	
Representation [while engaged in military or naval service or in public program for defense] <i>While Engaged in Military or Naval Service or in Public Program for Defense</i> of U.S.	Collateral	
(c) No change.	No change.	
Representation [while engaged in military or naval training service] <i>While Engaged in Military or Naval Training Service</i>	Determination of [claims] <i>Claims</i>	
(d) No change.	No change.	
Withdrawal of [authorization] <i>Authorization</i>	Surplus [after claims] <i>After Claims</i>	
(e) No change.	No change.	
Contracts by [representatives] <i>Representatives</i>	Filing [claims] <i>Claims</i>	
(f) No change.	(f) No change.	
<i>Article IV. Membership</i>	Intra-[partnership or intra-corporation claims] <i>Partnership or Intra-Corporation Claims</i>	
<i>Sec. 04. Transfer of Membership</i>	(g) No change.	
Charges [pending] <i>Pending</i>	Disposal of [membership] <i>Membership</i> by Board	
(a) No change.	(h) No change.	
Special [transfer] <i>Transfer</i> and [designation] <i>Designation</i> of [nominee] <i>Nominee</i>	Rights of [creditors] <i>Creditors</i>	
(b) No change.	(i) No change.	
Election of [transferee] <i>Transferee</i>	Rights of [creditor's estate] <i>Creditor's Estate</i>	
(c) No change.	(j) No change.	

and an opportunity to be heard by the Disciplinary Panel in accordance with the procedures specified in Section 1(b) of Article V and such determination shall be subject to review in accordance with the provisions of paragraph [(5)](7) of said Section.

Article IV. Membership

Sec. 06. Temporary Member Firms and Corporations

Death of [sole regular or options principal member associated with regular or options principal member organization] *Sole Regular or Options Principal Member Associated with Regular or Options Principal Member Organization*

(a) No change.

Application [requirements] *Requirements*

(b) No change.

Provisions of [articles of partnership;] *Articles of Partnership*; Use and [proceeds of membership] *Proceeds of Membership*

(1) No change.

Continuance in [business;] *Business*; Use and [proceeds of membership] *Proceeds of Membership*

(2) No change.

Agreement to be [filed;] *Filed*; Subject to [rules] *Rules*

(3) No change.

Capital

(4) No change.

Application [requirements] *Requirements*

(c) No change.

Continuance in [business] *Business*

(1) No change.

Use and [proceeds of membership] *Proceeds of Membership*

(2) No change.

Agreement to [be filed;] *Be Filed*; Subject to [rules] *Rules*

(3) No change.

Capital

(4) No change.

Rights and [privileges] *Privileges*

(d) No change.

Exceptions

No change.

Status [effective] *Effective*

(e) No change.

Termination of [status] *Status*

(f) No change.

Proceeds of [membership subject to claims] *Membership Subject to Claims*

(g) No change.

Article IV. Membership

Sec. 07. Disposal of [Regular] *Regular* Memberships by the Board Transfer to Chairman as [trustee] *Trustee*

(a) No change.

Owner [ceases to be member on transfer of membership to trustee] *Ceases to be Member on Transfer of Membership to Trustee*

(b) No change.

Purposes for [which membership is transferred to trustee] *Which Membership is Transferred to Trustee*

(c) No change.

Prices at [which trustee memberships shall be offered] *Which Trustee Memberships Shall be Offered No change.*

Transfer to [applicant] *Applicant for [membership] Membership*

No change.

Membership [may be reacquired by suspended member upon payment of amount due] *May be Reacquired by Suspended Member Upon Payment of Amount Due No change.*

Distribution of [proceeds] *Proceeds of [sale] Sale*

No change.

If [applicant fails in election, disposal of membership] *Applicant Fails in Election, Disposal of Membership* is to be [recommended] *Recommended*

No change.

Transfer to Exchange of [membership not sold or redeemed] *Membership Not Sold or Redeemed*

No change.

Memberships [transferred] *Transferred to Exchange to be [retired] Retired*

(d) No change.

Trustee [not liable] *Not Liable*

(e) No change.

Notice to be [given] *Given of [offering price] Offering Price*

(f) No change.

Article V. Discipline of Members

Sec. 01. [Procedure] *Procedures*

Assistance of [counsel permitted] *Counsel Permitted*

(a) No change.

Hearing before Disciplinary Panel

(b) Except as provided in Section 2 of this Article, Exchange disciplinary proceedings shall be conducted in the following manner:

(1) *Disciplinary Panel*. In any disciplinary proceeding involving charges against a member, member organization, approved person, or a registered or non-registered employee or prospective employee of a member or member organization, a hearing shall be held with respect to such charges before an Exchange Disciplinary Panel. Such Disciplinary Panel shall consist of not less than three nor more than five persons: a hearing officer who shall be chairman of the Panel with the remainder of the Disciplinary Panel being members of the hearing board.

(2) *Hearing Board*. The Chairman of the Board, subject to the approval of the Board, shall from time to time designate such number of Exchange Officials and shall appoint such number of additional persons to serve on the hearing board as he shall deem

necessary for the purpose of conducting Exchange disciplinary proceedings. The qualifications of persons to be appointed to the hearing board shall be determined in accordance with such rules as may be adopted by the Board of Governors, except that members of the Board of Governors shall not be eligible for appointment to the hearing board or as hearing officers. Exchange Officials and other persons appointed to the hearing board as herein provided shall serve at the pleasure of the Board of Governors or until [the next annual election of the Exchange and] their successors are appointed and take office.

(3) *Hearing Officer*. The Chairman of the Board, subject to the approval of the Board, shall designate one or more hearing officers who shall have no Exchange duties or functions relating to the investigation or preparation of disciplinary matters.

(4) *Composition of Disciplinary Panel*. In any hearing at which a charge or charges against a member, member organization, or approved person are considered pursuant to this Article, the members of the hearing board serving on the Disciplinary Panel shall, except as hereinafter provided, be members of the Exchange.

In any hearing at which a charge or charges against a registered or non-registered employee or prospective employee of a member or member organization are considered pursuant to this Article or pursuant to rules adopted by the Board of Governors, the members of the hearing board serving on the Disciplinary Panel shall include at least one registered employee or nonregistered employee of a member or member organization; in the discretion of the chairman of the Disciplinary Panel the remainder thereof may be members of the Exchange.

In any hearing at which a charge or charges against both a registered or non-registered employee or prospective employee of a member or member organization and against a member, member organization or approved person are considered pursuant to this Article or pursuant to rules adopted by the Board of Governors, the members of the hearing board serving on the Disciplinary Panel shall include one registered employee or non-registered employee of a member or member organization and the remainder thereof shall be members of the Exchange.

Subject to the foregoing provisions of this paragraph, the selection of the hearing officer to serve as the chairman of each Disciplinary Panel and the members of the hearing board to serve thereon shall be made in accordance with such rules as may be adopted by the Board of Governors. For all purposes of this Article, the decision of a majority of the members of a Disciplinary Panel shall be the decision of such Disciplinary Panel and shall be final and conclusive, except to the extent that such decision may be revised on review as provided in [paragraph (7) of this] Section [1(b)] *1(c)*.

(5) The Board of Governors, in accordance with the provisions of Section 2 of Article II, shall adopt such rules and prescribe such procedures not inconsistent with the provisions of this Article as it may deem necessary or appropriate for the conduct of

Exchange disciplinary proceedings and investigations, and may from time to time amend, alter or repeal any such rules or procedures.

(6) An accusation, charging a member, member organization or approved person before an Exchange Disciplinary Panel with having committed an offense, shall be in writing; it shall specify the charge or charges against such member, member organization or approved person with reasonable detail, and shall be signed by the person or persons making the charge or charges. A copy of such charge or charges, shall be served upon the accused member, member organization or approved person either personally, or by leaving the same during business hours at the office address of such member, member organization or approved person or by mailing it to such member, member organization or approved person at his or its office address or place of residence. The accused shall have twenty days from the date of such service to answer such charge or charges, or such further time as the Exchange in its discretion may deem proper. An answer shall be in writing, signed by or on behalf of the accused member, member organization or approved person and shall be filed with the Secretary of the Exchange. If so expressly required in the charge or charges, the answer shall specifically indicate which statements, or portions thereof, contained in the charge or charges are denied and which are admitted, and any such statements or portions thereof in the charge or charges which are not specifically denied shall be deemed to be admitted. The answer shall also contain in reasonable detail any affirmative defense which the accused wishes to submit and shall include any documents which the accused wishes to submit in support of the answer. Upon the answer being filed, or if the accused shall refuse or neglect to make answer as hereinbefore required, the Disciplinary Panel shall, at a hearing called for that purpose, proceed to consider the charge or charges. The Exchange shall cause copies of the charge or charges, and of the answer, if any, and of any documents submitted in support thereof by the accused, to be mailed or otherwise delivered to each member of the Disciplinary Panel at least five days before such hearing. Notice of such hearing shall be sent to the accused; the accused member, or any person associated with the accused member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, or the accused approved person, shall be entitled to be present personally thereat, and shall be permitted to examine and cross-examine all of the witnesses produced before the Disciplinary Panel, and also to present such testimony, defense or explanation as may be deemed responsive to the charge or charges. Any witnesses produced by the accused shall be subject to cross examination. After hearing all the witnesses produced before the Disciplinary Panel and after hearing the accused the Disciplinary Panel shall determine whether or not the accused member, the accused member organization or the accused approved person is guilty of the

offense or offenses charged. If it determines that the accused is guilty, the Disciplinary Panel may fix and impose the penalty. Any such determination shall be supported by a written statement setting forth (i) any act or practice in which such member, member organization or approved person is found to have engaged or which such member, member organization or approved person is found to have omitted, (ii) the specific provision of the Securities Exchange Act of 1934, as amended, the rules and regulations thereunder, the Constitution or the rules, procedures or policies of the Exchange, which any such act, practice or omission to act is deemed to violate, and (iii) the penalty imposed and the reasons therefore. Such written statement shall be served upon the accused in the manner hereinbefore provided, and a copy thereof shall be sent to each member of the [Board of Governors] *Amex Adjudicatory Council*. The determination of the Disciplinary Panel and any penalty imposed shall become final and conclusive twenty days after notification thereof to the accused, provided, however, that if a request for review of such determination or penalty, or both, is filed, as hereinafter provided, the penalty shall be stayed pending the result of such review.

Review by Amex Adjudicatory Council

(c)[7] Any member, member organization or approved person determined to be guilty of a charge or charges before an Exchange Disciplinary Panel pursuant to this Article may require [a review of] *that* such determination [or of any] *the* penalty imposed by the Disciplinary Panel, or [of] both the determination and the penalty]. Upon the request of any four members of the Board of Governors, any determination by a Disciplinary Panel pursuant to this Article or any penalty imposed by such Disciplinary Panel, or both, shall be subject to review as hereinafter provided] *be reviewed by the Amex Adjudicatory Council*. A request for such review of [such] *an Exchange Disciplinary Panel* determination or penalty shall be made in writing and filed with the Secretary of the Exchange within twenty days after notification of the determination and penalty, if any, is served upon the accused member, member organization or approved person.

[The review of a disciplinary proceeding by the Board shall be conducted at a regular or special meeting called for the purpose and notice of the object thereof shall be sent to the members of the Board. Fifteen governors shall be required to constitute a quorum for any meeting of the Board at which the Board shall review a disciplinary proceeding as herein provided, and any action shall pursuant to the vote of a majority of the governors present at such meeting shall be the action of the Board] *An Exchange Disciplinary Panel determination or penalty shall also be subject to review by the Amex Adjudicatory Council upon a call for review by any member of the Council within thirty days after service of the Panel's determination.*

In connection with any such review[, the Board may affirm any] *of an Exchange Disciplinary Panel*

determination [by the Disciplinary Panel or sustain any penalty imposed, or both, may] *or penalty, the Amex Adjudicatory Council may, as it deems appropriate, (i) affirm, modify or reverse [any such] the determination[, or may] made by the Disciplinary Panel; and (ii) sustain, decrease or eliminate any [such penalty] penalty imposed by the Disciplinary Panel, or impose any lesser penalty permitted under the provisions of this Article [, as it deems appropriate; or if the Board shall determine].*

If the Amex Adjudicatory Council determines that the Disciplinary Panel has not adequately considered all of the matters which should have been considered in connection with the charge or charges, or has improperly applied or interpreted the Constitution, rules, requirements and policies of the Exchange, or has imposed a penalty or penalties which the [Board] *Council* determines to be inadequate in light of all the circumstances, the [Board] *Council* may remand the matter to the Disciplinary Panel for further consideration consistent with such determination. Upon such remand, the Disciplinary Panel shall conduct a further hearing in accordance with the provisions of [this] subsection (b) and may as a result thereof modify, reverse or reaffirm its previous determination or impose any penalty permitted under this Article regardless of whether such penalty shall be greater than the penalty imposed as a result of the original hearing. Any determination or penalty imposed by the Disciplinary Panel as a result of a remand from the *Amex Adjudicatory Council* shall be subject to further review upon request as hereinabove provided.

[If, upon review, the matter is not remanded to the Disciplinary Panel, the determination and penalty, if any,] *The Amex Adjudicatory Council shall transmit its proposed written decision to each member of the Board [shall be final and conclusive] of Governors. The Board may call the proceeding for review pursuant to Section 2(d) of this Article. If the Board does not call the proceeding for review, the proposed written decision of the Amex Adjudicatory Council shall become final. Unless the Amex Adjudicatory Council remands the proceeding, the decision shall constitute the final action of the Exchange.*

Discretionary Review by the Board of Governors

(d) *Upon the request of any four its members, the Board of Governors may review a proposed written decision of the Amex Adjudicatory Council. Such a request for review shall be made not later than the next meeting of the Board of Governors that is at least 15 days after that date on which the proposed written decision of the Amex Adjudicatory Council is transmitted to the Board. By a unanimous vote of the Board of Governors, the Board may shorten the period to less than 15 days. By an affirmative vote of the majority of the Board then in office,*

the Board may, during the 15 day period, vote to extend the period to more than 15 days. The review by the Board of Governors shall occur not later than the next regularly scheduled meeting of the Board following the request for review. Ten governors shall be required to constitute a quorum for any meeting of the Board at which the Board shall review a disciplinary proceeding as herein provided, and any action taken pursuant to the vote of a majority of the governors present at such meeting shall be deemed to be the action of the Board.

After review, the Board of Governors may affirm, modify, or reverse the proposed written decision of the Amex Adjudicatory Council. Alternatively, the Board of Governors may remand the proceeding with instructions. The decision of the Board of Governors shall constitute the final action of the Exchange, unless the Board remands the proceedings.

Disciplinary Fine Systems

[(c)](e) The Board shall adopt such rules as it deems necessary or appropriate to implement disciplinary fine systems for the resolution of minor rule violations and shall delegate appropriate authority to officers and employees of the Exchange to properly administer such fine systems.

Discussing [charges prohibited] *Charges Prohibited*

[(d)](f) No person, firm or corporation under charges before a Disciplinary Panel shall discuss [with any member] the subject of such [Panel or] charges with any member of the [Board, nor shall any] Panel, the Amex Adjudicatory Council, or the Board of Governors. No member of the [Panel or any member of the Board] Board of Governors, the Amex Adjudicatory Council, or a Disciplinary Panel shall discuss charges made in a disciplinary proceeding with any [such] person, firm or corporation being charged, or with any one representing [him or it directly or indirectly, the subject of such charges. [such person, firm or corporation.

Announcement of [results] *Results*

[(e)](g) The Board of Governors shall adopt rules governing the announcement of the results of any disciplinary proceeding conducted pursuant to the provisions of this Article, provided, however, that no such announcement shall be permitted until there shall have been a final determination by the Exchange with regard to such disciplinary matter and the penalty, if any, to be imposed.

Article V. Discipline of Members

Sec. 02. Delegation of Disciplinary [Power] Powers

Stipulation of [facts] *Facts* and [consent] Consent to [penalty] *Penalty*

In lieu of the procedures set forth in paragraph 6 of Section 1(b) of this Article, a Disciplinary Panel, selected in accordance with the provisions of Section 1(b) of this Article, at a hearing called for that purpose may determine whether any member, member organization or approved person is guilty of having committed an offense or offenses on the basis of a written stipulation of facts and consent to a specified penalty

entered into between such member, member organization or approved person and any officer of the Exchange, and may fix and impose the penalty agreed to in such stipulation and consent or any lesser penalty. A written notice of the result shall be served upon the member, member organization or approved person in the manner provided in subsection (b) of Section 1 of this Article, and a copy thereof shall be sent to each member of the [Board of Governors] Amex Adjudicatory Council. The determination of the Disciplinary Panel and any penalty imposed shall become final and conclusive ten days after notification thereof to the accused, provided, however, that if a request for review by the [Board of Governors] Amex Adjudicatory Council of such determination or penalty, or both, is filed as hereinafter provided, the penalty shall be stayed pending the result of such review. If the Disciplinary Panel rejects the stipulation and consent to a specified penalty, the matter shall proceed as if the stipulation and consent had not been entered into, and such stipulation and consent shall be disregarded in any subsequent proceeding. A written notice of such rejection by the Disciplinary Panel shall be served upon the member, member organization or approved person in the manner provided in subsection (b) of Section 1 of this Article.

Upon the request of any [four members of the Board of Governors, the Board or a committee of governors delegated by the Board] member of the Amex Adjudicatory Council, the Council shall review the determination of, or the penalty imposed by, a Disciplinary Panel in connection with a written stipulation of facts and consent to a specified penalty. Any such request for review of such determination or penalty shall be made in writing and filed with the Secretary of the Exchange within ten days after notification of the determination and penalty, if any, is served upon the accused member, member organization or approved person. Upon review, the [Board or the review committee] Amex Adjudicatory Council may fix and impose the penalty agreed to in such stipulation and consent, or impose a lesser penalty or reject such consent, as it deems appropriate. [The quorum and vote required for such action by the Board shall be the quorum and vote provided in Section 1(b)(7) of this Article.

Article V. Discipline of Members

Sec. 03. Suspension in View of Financial or Operating Conditions

Automatic [suspension] *Suspension*

(a) No change.

Suspension by Chairman

(b) Whenever it shall appear to the Chairman that a member or a member organization has failed to meet his or its engagements or is insolvent, or [the Chairman has been advised by the Executive Committee that such member or member organization is, in its opinion,] is in such financial or operating condition that he or it cannot be permitted to continue in business with safety to investors, his or its creditors, other members of the Exchange, or whenever it shall appear to the Chairman that a

member or member organization has been suspended by another registered national securities exchange or national securities association for failure to meet his or its engagements, for insolvency or for being in such financial or operating condition that he or it cannot be permitted to continue in business with safety to investors, his or its creditors, other members, or such other exchange or securities association, the Chairman shall announce to the Exchange the suspension of such member or member organization, which suspension shall continue until such member or member organization has been reinstated as provided in Section 5 of Article IV.

Investigation by Exchange

(c) No change.

Sale of [regular or options principal membership and revocation of associate membership] Regular or Options Principal Membership and Revocation of Associate Membership

(d) No change.

Failure to [pay dues] Pay Dues, etc.

(e) No change.

(f) Any member or member organization suspended under the provisions of subsections (a) or (b) of this Section 3 shall be granted promptly a hearing with regard to such suspension before the [Executive Committee,] Board or such [other] committee as may be appointed by the Board for such purpose. Any determination by the Board or such committee as a result of such hearing to affirm the suspension shall be supported by a statement setting forth the specific grounds on which the suspension is based.

Article V. Discipline of Members

Sec. 04. Suspension or Expulsion

Examination by [another exchange] Another Self-Regulatory Organization

(a) If the Board of Governors shall deem that it is in the interest and welfare of the Exchange or in the public interest, or appropriate or necessary for the maintenance of just and equitable principles of trade, to facilitate the examination by the authorities of another [exchange] self-regulatory organization of any transaction in which a member or member organization of the Exchange has been concerned and that the testimony of such member or his employees or the testimony of such member organization or the members associated therewith, or approved persons or employees thereof or the books and papers of such member or member organization or the books and papers of any such persons are material to such examination and shall direct such member or member organization to appear and testify, or to cause any of such persons to appear and testify, or to produce such books and papers before the authorities of such other [exchange] self-regulatory organization, or any committee thereof, for the purposes of such examination, and the member or member organization of the Exchange shall refuse or fail to comply with any such direction, the member or the member organization may be adjudged guilty of an act detrimental to the interest and welfare of the Exchange.

Fraud

- (b) No change.

Fictitious [transactions] *Transactions*

- (c) No change.

Market [demoralization] *Demoralization*

- (d) No change.

Misstatements

- (e) No change.

Fraud [prior to election or approval] *Prior to Election or Approval*

- (f) No change.

[Dealings on another exchange

(g) Rescinded effective August 19, 1976.](g)
[Reserved]

Violation of Constitution, [rules] *Rules* or [resolution] *Resolution*—Inequitable [conduct] *Conduct*

- (h) No change.

Violation of Securities Exchange Act

- (i) No change.

Acts [detrimental] *Detrimental* to Exchange

- (j) No change.

Failure to [testify] *Testify*

- (k) No change.

Improper [conduct] *Conduct*

- (l) No change.

Betting

- (m) No change.

Fines in [addition] *Addition* to or in [lieu of suspension or expulsion] *Lieu of Suspension or Expulsion*

- (n) No change.

Termination of [rights] *Rights* by [expulsion] *Expulsion*

- (o) No change.

Termination of [rights] *Rights* by [suspension] *Suspension*

- (p) No change.

Proceedings [against suspended member or member organization] *Against Suspended Member or Member Organization*

- (q) No change.

Responsibility for [acts] *Acts* of [others] *Others*

- (r) No change.

Suspension or [expulsion of members of suspended or expelled member, member organization] *Expulsion of Members of Suspended or Expelled Member, Member Organization*

- (s) No change.

Continued [failure] *Failure* to [pay fines, dues] *Pay Fines, Dues, etc.*

- (t) No change.

*Article V. Discipline of Members**Sec. 05. Suspension, Expulsion or Bar by Another Regulatory Authority*

- (a) No change.

Procedure

(b) In any proceeding under this Section 5, the method of procedure required by Section 1(b) of this Article V shall not apply, but the accused shall be given not less than ten days'

notice in writing that an Exchange Disciplinary Panel will conduct a hearing to determine whether or not to suspend or expel the accused, as the case may be, as provided in this Section 5. At the hearing before the Disciplinary Panel, the accused member, or any person associated with the accused member organization who is a member of the Exchange and is designated in writing by the accused member organization to represent it for all purposes at such hearing, shall be afforded an opportunity to explain why it would be inappropriate for the Disciplinary Panel to accept the finding of such other exchange, association or agency or to suspend or expel the accused, notwithstanding the suspension, expulsion or bar by such other exchange, association or agency. In the event that the Disciplinary Panel determines not to accept the finding of guilt by such other exchange, association or agency, it may order a proceeding under any other Section of this Article V. In the event that the accused fails or refuses to appear before the Disciplinary Panel, the Disciplinary Panel may nevertheless determine the matter and suspend or expel the accused as provided in this Section 5. If the Disciplinary Panel determines to accept the finding of guilt by such other exchange, association or agency and to suspend or expel the accused, such determination shall be supported by a written statement setting forth the specific grounds on which such action is based. Such written statement shall be served upon the accused in the manner provided by Section 1(b) of this Article V, and a copy thereof shall be sent to each member of the [Board of Governors] *Amex Adjudicatory Council*. Any action by an Exchange Disciplinary Panel pursuant to this Section 5 shall be subject to review in accordance with the procedures specified in [Section 1(b)] *Sections 1(c) and (d)* of this Article V. In the event no request for review is filed within twenty days after the accused is notified of the determination of the Disciplinary Panel, such determination shall become final and conclusive.

- (c) No change.

*Article V. Discipline of Members**Sec. 06. Retention of Jurisdiction over Former Members*

If, during the period of one year immediately following (a) the termination of a person's status as a member or member organization, (b) receipt by the Exchange of written notification of such termination, or (c) receipt by the Exchange of any amendment to such termination notice, whichever occurs later, the Secretary of the Exchange gives written notice to such person that the Exchange is making inquiry into any specified matter or matters occurring prior to the termination of such person's status as a member or member organization, the Board of Governors, the Chairman or any committee authorized by the Board or the Constitution may thereafter require such person to submit to the Exchange books and papers relating to the matter or matters specified in such notice, or to furnish information to, or to appear and testify before, the Board, the Chairman, any such committee or such officers, employees or representatives of the

Exchange as may be designated by the Chairman or such committee with respect to any such matter. Following the termination of such person's status as a member or member organization, provided such notice is given, such person may be charged with having refused or failed to comply with any such requirement or, as a result of the inquiry into the matter or matters specified in such notice, such person may be charged with having committed, prior to termination, any other offense with which such person might have been charged had such status not been terminated. Any charge against a former member or member organization may be brought before an Exchange Disciplinary Panel and determined as provided in Section 1(b) of this Article V in the case of a member or member organization. Whenever an Exchange Disciplinary Panel shall determine that any such former member or member organization is guilty of the offense or offenses charged, it may impose a fine, impose a censure, or direct that such person not be admitted or re-admitted as a member or member organization for a specified period of time; and, in the case of a former member, the Exchange may thereafter refuse to approve the employment of such person by a member or member organization:

(a) for such period of time as the Exchange may determine, or

(b) until such time as the Board, any committee authorized by the Board or the Constitution, or the Chairman or any officer, employee or representative of the Exchange designated by the Chairman, shall have completed the investigation of the matter with respect to which such former member or member organization refused or failed to submit books and papers, or to furnish information, or to appear and testify, and until the passage of such further period of time, if any, as the Exchange Disciplinary Panel shall have specified.

Article VI. Commissions

[Rescinded effective May 1, 1976.]
Intentionally omitted.

*Article VII. Fees and Dues**Sec. 01. Annual Membership Fees*Regular [members] *Members*

[(a) Regular members—The initiation fee for regular membership shall be based upon the latest price at which a regular membership shall have been sold and transferred to an applicant for membership, otherwise than for a nominal consideration or through a private sale prior to the date when such initiation fee is due. Such initiation fee shall be \$1,000, if such sale price shall have been \$5,000 or less, and such fee shall be increased by \$500 for each additional \$5,000; but in no case shall such initiation fee exceed \$2,500.

Notwithstanding the foregoing provisions of this subsection,](a) *Regular members—The initiation fee for regular membership shall be \$2,500; provided, however, that if a regular member who is associated with a member organization transfers his membership to another person associated with such member organization and such organization continues to engage in the business of buying and selling securities as brokers or dealers*

without interruption or change, other than such changes as may be occasioned by the death or retirement of the regular member whose membership is being transferred, the initiation fee payable in connection with such transfer shall be \$1,500.

Notwithstanding other provisions of the Constitution, an applicant for regular membership who is an associate member on the effective date of this amendment and continues to be such down to the date of the filing of his application for regular membership, or is a general partner or a director of a firm or corporation which was an associate member firm or corporation on the effective date of this amendment and continues to be an associate member firm or corporation down to the date of the filing by such applicant of his application for regular membership, shall not be required to pay any initiation fee.

The above initiation fee shall be paid prior to the approval by the Exchange of an applicant for regular membership.

[Transfer of Chairman's membership]

[The Board may nevertheless permit the transfer, without payment of any initiation fee, of a regular membership of a person elected to the office of Chairman and of a regular membership transferred to a person who has ceased to be Chairman if such person transferred a regular membership formerly owned by him in order to qualify as Chairman.

[Associate membership of Chairman]

[Notwithstanding the provisions of this subsection the Exchange may approve as an associate member, without payment of an initiation fee, one who was a partner of the Chairman at the time of his election, but such associate membership shall continue only so long as such Chairman shall continue in office. The Exchange may also permit a former Chairman to become an associate member, without payment of any initiation fee, if he ceased to be an associate member of the Exchange by reason of his election to the office of Chairman.

[(b) Options principal members—A person acquiring an options principal membership directly from the Exchange pursuant to a plan offering such memberships to qualified applicants, and paying to the Exchange the fee prescribed in such plan for an options principal membership, shall not be required to pay an initiation fee. In all other cases (except as hereinafter provided), the initiation fee for options principal membership shall be based upon the latest price at which an options principal membership shall have been sold and transferred to an applicant for membership, otherwise than for a nominal consideration or through a private sale, prior to the date when such initiation fee is due. Such initiation fee shall be \$1,000, if such sale price shall have been \$5,000 or less, and such fee shall be increased by \$500 for each additional \$5,000, or fraction thereof, by which such sale price shall have exceeded \$5,000; but in no case shall such initiation fee exceed \$2,500.

[Notwithstanding the foregoing provisions of this subsection,](b) *Options principal members—The initiation fee for options*

principal membership shall be \$2,500; provided, however, that if an options principal member who is associated with a member organization transfers his membership to another person associated with such member organization and such organization continues to engage in the business of buying and selling securities as brokers or dealers without interruption or change, other than such changes as may be occasioned by the death or retirement of the options principal member whose membership is being transferred, the initiation fee payable in connection with such transfer shall be \$1,500.

The initiation fee required by this subsection shall be paid prior to the approval by the Exchange of an applicant for options principal membership.

(c) No change.

(d) No change.

Associate Members

(e) No change.

(f) No change.

Article VII. Fees and Dues

Sec. 02. Dues, Fines and Assessments

Payment of [dues] Dues

(a) No change.

Apportionment of [dues] Dues

No change.

Exchange to [return unexpired dues paid by transferor and collect from transferee] *Return Unexpired Dues Paid by Transferor and Collect from Transferee*

(b) No change.

Unpaid [dues to date of transfer collectible from proceeds of sale] *Dues to Date of Transfer Collectible from Proceeds of Sale*

(c) No change.

Liability for [dues] *Dues* until [transfer] *Transfer*

(d) No change.

(e) No change.

Article VII. Fees and Dues

Sec. 03. Associate Member Fees

Fee [where associate member becomes director or executive officer of corporation] *Where Associate Member Becomes Director or Executive Officer of Corporation*

No change.

Article VII. Fees and Dues

Sec. 04. Special Charge

Exchange [may impose on members fees based on transactions] *May Impose on Members Fees Based on Transactions*

The Board of Governors may impose upon regular, options principal and associate members and upon regular, options principal and associate member organizations a charge on each securities transaction effected through the facilities of the Exchange, and may change, remove, and reimpose such charge. In fixing the amount of such charge, the Board may establish different rates for transactions effected for non-members, for members and member organizations and for various categories of members, or may omit

such charge for any category or categories of members or member organizations and may establish different rates for transactions effected in different securities or through different mechanisms. Such charges shall be payable at such times and shall be collected in such manner as the Board may determine, and the proceeds thereof shall be deposited among the general funds of the Exchange.

Article VII. Fees and Dues

Sec. 05. Options Transactions

In lieu of the charge authorized by Sec. 4 of this Article VII, the Board of Governors may impose upon regular, options principal and associate members and upon regular, options principal and associate member organizations in respect of options transactions effected on the Exchange a charge for each such options transaction, and may from time to time change, remove, and reimpose such charge. In fixing the amount of such charge, the Board may establish different rates for options transactions effected for non-members, for members and member organizations and for various categories of members and may establish different rates for transactions effected in different securities or through different mechanisms. Such charge shall be applicable to both the writing and the purchase of options on the Exchange and shall be payable at such times and shall be collected in such manner as the Board may determine and the proceeds thereof shall be deposited among the general funds of the Exchange.

Article VIII. Arbitration Procedure[*]

Sec. 01. Duty to Arbitrate

Members, member organizations, partners, officers and trustees of member organizations shall arbitrate all controversies arising in connection with their business between or among themselves or between them and their customers as required by any customer's agreement or, in the absence of a written agreement, if the customer chooses to arbitrate. Lessors and lessees shall arbitrate all controversies arising between them in connection with their special transfer agreement. Owners of memberships and their nominees shall arbitrate all controversies arising between them in connection with the membership and the business thereof.

[*Sections 1 to 5, together with Rules 600–609, were adopted effective June 8, 1964, to replace Sections 1 to 15 and amendments of September 4, 1962.]

Article VIII. Arbitration Procedure[*]

Sec. 02. Arbitration Forum

Arbitration shall be conducted pursuant to the NASD Code of Arbitration Procedure, except that [under the arbitration procedures of this Exchange, except as follows:

[(a) the Board of Governors may decline in any case to permit the use of the arbitration facilities of this Exchange;

(b) if all parties to the controversy are members, allied members, member firms or member corporations of the New York Stock Exchange, any party may elect to arbitrate under the arbitration procedures of that exchange.]; or

[(c) if any of the parties to a controversy is a customer, the customer may elect to arbitrate before the American Arbitration Association in the City of New York, unless the customer has expressly agreed, in writing, to submit only to the arbitration procedure of the Exchange.]

Article VIII. Arbitration Procedure[]*

Sec. 03. [Rules of Arbitration] Proceeding Instituted Prior to Combination

[The Board of Governors shall prescribe rules regarding arbitration and the conduct of arbitration proceedings, and may from time to time amend, alter or repeal any rule so adopted. These rules may, without limitation, cover the designation of an Arbitration Director and Assistant Arbitration Director, requests for arbitration, answers and counterclaims, the selection of panels and arbitrators, the arbitrability of a controversy, instructions to arbitrators, fees and costs, and such other matters as the Board shall deem necessary or appropriate.] *Any arbitration proceeding instituted with Predecessor Corporation prior to the closing date under the Transaction Agreement may continue to be conducted by means of the arbitration facilities of this Exchange and in accordance with Exchange arbitration rules and procedures in effect when such proceeding was instituted.*

Article VIII. Arbitration Procedure[]*

[Sec. 04. Arbitrators' Decision Final

[A majority of the arbitrators may determine any question and render an award. The decision of such majority shall be final and binding upon all parties to the arbitration, and there shall be no appeal therefrom to the Board of Governors. The decision and award of such majority shall be rendered to each party in writing, signed and acknowledged by the arbitrators rendering the decision.]

[Article VIII. Arbitration Procedure]*

[Sec. 05] Sec. 04. Penalties

(a) Failure to arbitrate—No change.
(b) Failure to pay award—Failure on the part of a member, member organization or owner of a membership to pay an award made pursuant to the [Exchange] arbitration [procedure] *procedures of an exchange or the NASD shall be deemed a failure to meet his or its engagements and subject him or it to suspension under Article V, Section 3.*

Article IX. The Gratuity Fund

Sec. 01. Participants Only

(a) No change.

Sec. 02. Purpose

No change.

Sec. 03. Contributions by New Participants

No change.

Sec. 04. Contributions on Death of Participant

No change.

Sec. 05. Payment of Benefits

No change.

Additions to [principal] *Principal*

No change.

Sec. 06. Beneficiaries Surviving Spouse

No change.

Surviving Spouse and Issue

No change.

Issue—No [surviving spouse] Surviving Spouse

No change.

Adopted [children] Children

No change.

No [issue] Issue—No [surviving spouse] Surviving Spouse

No change.

No [relatives] Relatives

No change.

Decision on [relationships] Relationships

No change.

Sec. 07. Income of Fund

There shall be credited annually to each Participant, in reduction of his payments under this Article, his proportion of the net income which has been received as interest on the Fund during each year, plus so much of his proportion of the principal of said Fund above two hundred fifty thousand dollars as the Trustees in their discretion may deem advisable.

In the event any extraordinary payment shall be received by the Gratuity Fund from any source, there shall be credited to each then participant, in reduction of his payments under this Article, his proportion of such payment.

Sec. 08. Restriction to Participants

No change.

Sec. 09. Management by Trustees

No change.

Sec. 10. Classification and Selection of Trustees

The Trustees of the [said] *Gratuity Fund* shall be [nominated and elected in the same manner, and at the same time, as governors of] *appointed by The Amex Corporation, based on the vote of the regular and options principal members of the Exchange.* The [said] Trustees shall be divided into three classes, each consisting of two Trustees. [Except as provided in Article XIV, said] Trustees shall hold office for three years from the date of their election and until Trustees are chosen and qualified in their stead.

Sec. 11. Vacancy Among Trustees

In case of a vacancy among the Trustees, the [Board of Governors] *board of The Amex Corporation shall appoint a person qualified to serve as Trustee until the next meeting at which the Trustees to be appointed are selected* [at its next regular meeting thereafter, shall fill the vacancy, pending the next annual election of the Exchange].

Sec. 12. Investments

No change.

Sec. 13. Officers of Fund

No change.

Sec. 14. Meetings of Trustees

No change.

Sec. 15. Report on Condition

No change.

Sec. 16. Management

It shall be the duty of the Secretary of the Fund to keep regular minutes of the proceedings of the Trustees, and to give notice of meetings.

Deposit of [funds:] *Funds*; Custody of [securities] *Securities*; Books

No change.

Sec. 17. Payments to Minors

No change.

Sec. 18. Beneficiary Not Located

No change.

Sec. 19. Expenses

No change.

Sec. 20. Vacancy Among Officers

No change.

Sec. 21. Supervision of Finances

No change.

Annual [audit] Audit

No change.

Sec. 22. Discipline of Trustees

No change.

Sec. 23. Transition Provisions

No change.

Article X. Clearing Organizations

Sec. 01. Clearing Organizations

No change.

Sec. 02. Settlement of Exchange Contracts

No change.

Sec. 03. Exchange Contracts Include

No change.

Article XI. Miscellaneous Provisions

Sec. 01. Rules of Exchange Included in Contract Terms

No change.

Sec. 02. Securities Admitted by New York Stock Exchange

Rescinded effective August 19, 1976.

Sec. 03. Keeping of Books

No change.

Sec. 04. [and Sec. 05.] Controlled Corporations and Associations

Broker for [securities corporation] *Securities Corporation*

No change.

Participation in [corporate commissions] *Corporate Commissions*

No change.

Corporate [use] *Use of [member office;] Member Office*; Corporate [use] *Use of [member name] Member Name*

No change.

Responsibility for [corporate subsidiary;] *Corporate Subsidiary*; Duty to [produce books] *Produce Books*

No change.

Sec. 05. Options

No employee of the Exchange and no employee of any corporation in which the Exchange owns the majority of the capital stock may purchase or sell for his own account or for any account in which he has a direct or indirect interest any option which entitles the purchaser to purchase or sell any security which is the subject of any option contract admitted to dealings on the Exchange; *provided, however, that this prohibition shall not extend to a standardized option issued by The Options Clearing Corporation unless such option is on an underlying security which is listed on the Exchange.*

Sec. 06. Rule of Construction

This Constitution shall be governed by, and construed in accordance with, the laws of the State of Delaware, without regard to the principles of conflict of laws.

Article XII. Emergency Committee or Extraordinary Market Conditions

Current Article XII is deleted in its entirety.

Sec. 01. Authority to Take Action Under Emergency or

Extraordinary Market Conditions

The Board of Governors, or such person or persons as may be designated by the Board, in the event of an emergency or extraordinary market conditions, shall have the authority to take any action regarding the trading of any or all securities on the Exchange and the operation of any Exchange trading system or facility and the participation in any such system or facility by any or all persons, if in the opinion of the Board or the person or persons hereby designated, such action is necessary or appropriate for the protection of investors or the public interest or for the orderly operation of the Exchange or any Exchange system or facility.

Article XIII. Amendments To The Constitution

Sec. 01. Procedure

The provisions of this Constitution may be amended or repealed, and new provisions may be adopted, only [by the regular members of] *if approved by a majority of governors and by the holder of the Class B Interest in the Exchange in accordance with the procedure specified in this Article. The Board of Governors and the holder of the Class B Interest shall not approve any change to the Constitution that requires the consent of The Amex Corporation, the Amex Committee, or both under the terms of the Transaction Agreement without first obtaining such consent. The elimination of the foregoing sentence or any amendment thereto that would limit its effect shall also require the consent of The Amex Corporation.*

Article XIII. Amendments To The Constitution

Sec. 02. Adoption by Board

Amendments to the Constitution may be proposed by one or more members of the Board of Governors or by the signed petition of not less than 50 regular and options principal members of the Exchange setting forth the proposed amendment. Any such petition shall be filed with the Secretary of the Exchange who shall present it to the Board of Governors at its next regular meeting or within 30 days after the date such petition is filed.

Every proposed amendment to the Constitution must be presented in writing to the Board of Governors at a regular meeting or at a special meeting expressly called for the purpose of receiving it. The Secretary of the Exchange shall promptly cause a copy of every proposed amendment to be transmitted to each governor. Action on any proposed amendment shall be taken or postponed at a regular meeting of the Board of Governors or at a special meeting expressly called for the purpose of acting thereon. The Board of Governors may make such changes in an amendment so proposed as it may deem necessary or appropriate in order to carry out the intention of such proposed amendment or in order to make it conform to other provisions of the Constitution or any applicable Federal or State Law. *Subject to the requirements of Section 1 of this Article XIII, a proposed amendment shall be adopted if it is approved by the affirmative vote of the majority of governors then in office and by the holder of the Class B Interest in the Exchange.*

Article XIII. Amendments To The Constitution

Sec. 03. [Proposal of Amendments] Voting by Membership

[Amendments] *In the event that a proposed amendment to the Constitution cannot be made without the consent of The Amex Corporation, based on the vote of regular and options principal [may be proposed in the following manner:*

[a] (a) By one or more] members of the Exchange, [Board of Governors: Any such proposed amendment when approved by the affirmative vote of a majority of the Governors then in office shall be posted on the bulletin board and submitted to the regular members for vote thereon at a special meeting of the regular members of the Exchange called for the purpose as hereinafter provided in Section 4 of this Article XIII; or

[b] (b) By the signed petition of not less than fifty regular members of the Exchange setting forth in the proposed amendment and filing the same with] the Secretary of the Exchange [who shall present it to the Board of Governors at its next regular] *shall request that the Amex Corporation hold a special meeting [or within 30 days after the date such petition is filed. The Board may direct that such amendment be posted on the bulletin board and submitted, with or without the approval of the Board, to the regular members for vote thereon as hereinafter provided in Section 4 of this*

Article XIII; provided, however, that in any case the Board of Governors shall, within eight weeks after] for the purpose of considering such proposed amendment. *The Secretary shall furnish a copy of the proposed amendment with such request.*

[has been presented to the Board, cause it to be posted on the bulletin board and submitted to the regular members for a vote as hereinafter provided.

Article XIII. Amendments To The Constitution

Sec. 04. [Voting by] Adoption of Amendments Requiring a Membership Vote

In the event that [Promptly after the posting of] a proposed amendment[, notice of a special meeting] to the Constitution cannot be made without the consent of The Amex Corporation, based on the vote of the regular and options principal members of the Exchange [called pursuant to this Article shall be given by the Secretary of the Exchange to each regular member as provided in Section 8(e) of Article III. With the notice the Secretary shall furnish a copy of], the Predecessor Corporation shall grant such consent to the proposed amendment [and a form of proxy designating not less than three] if it is authorized to do so by a majority of the regular [or allied] and options principal members [of the Exchange selected by the Board of Governors to serve as a Proxy Committee authorized to act for regular members at] voting as a single class at a duly convened meeting at which a quorum is present. If a quorum shall not be present, in person or by proxy, at the place and time fixed for the special meeting[. The proxy shall provide, by boxes or otherwise, means by which a regular member may specify that his vote be cast for or against] called to consider the proposed amendment[. The proxy shall further provide as to how it will be voted if not so specified. All proxies to the Proxy Committee shall, unless revoked, be voted as specified or otherwise provided thereon, and the votes thereunder may be cast by any one or more members of the Proxy Committee present], the meeting shall be adjourned to reconvene at the same time and place on the day two weeks thereafter or, if the Exchange is not open for business on that day, on the next succeeding business day. If a proposed amendment is not approved at the special meeting at the time fixed therefore or at such adjourned time, such amendment may not again be submitted to the membership for a period of ninety days[. Any member except one who has executed an irrevocable proxy to a member organization as provided in Section 8(d) of Article III, may attend and vote in person or may designate one or more regular or allied members of the Exchange other than the members of the Proxy Committee to act for him by proxy at the special meeting.

Article XIII. Amendments To The Constitution

Sec. 05[. Adoption of Amendments

[Except as otherwise required by law or by this Constitution, a proposed amendment shall be adopted if it is authorized by a majority of the votes cast at the special

meeting at which it is submitted, provided that a quorum is present, in person or by proxy. If a quorum shall not be present, in person or by proxy, at the place and time fixed for a special meeting of the regular members called pursuant to this Article, the meeting shall be adjourned to reconvene at the same time and place on the day two weeks thereafter or, if the Exchange is not open for business on that day, on the next succeeding business day. If a quorum shall not then be assembled, the meeting shall be dissolved and the proposed amendment shall not become effective. If a proposed amendment is not approved at the special meeting at the time fixed therefore or at such adjourned time, such amendment may not again be submitted to the regular membership for a period of ninety days.

[Sec. 06]. Provisions for Families of Deceased Members

Notwithstanding the foregoing provisions of this Article, no amendment of Article IX shall ever be made which will impair, in any essential particular, the obligation of each regular member to contribute, not less than the sum of twenty-five dollars to the provision for the families of deceased members, unless such amendment shall be authorized by a unanimous vote, or by the written request, of all of the regular members of the Exchange.

Article XIV. Reserved [Implementation of Reclassification Amendments]

Current Article XIV is deleted in its entirety.

EXHIBIT B—AMERICAN STOCK EXCHANGE, INC.

Proposed Rule Change

(Text in brackets indicates material to be deleted; italicized text indicates material to be added.)

Rule 345. Determinations Involving Employees and Prospective Employees

(a) through (d). No change.

(e) Upon the answer being filed, or if the person charged shall refuse or neglect to make answer as hereinbefore required, the Disciplinary Panel shall, at a hearing called for that purpose, proceed to consider the charge or charges. The Exchange shall cause copies of the charge or charges and of the answer, if any, and of any documents submitted in support thereof by the person charged, to be mailed or otherwise delivered to each member of the Disciplinary Panel at least five days before such hearing. Notice of such hearing shall be sent to the person charged; he shall be entitled to be present personally at the hearing, and shall be permitted to examine and cross-examine all witnesses produced at the hearing and also to present such testimony, defense or explanation as may be deemed responsive to the charge or charges. Any witnesses produced by the person charged shall be subject to cross-examination. After hearing all witnesses produced at the hearing and after hearing the person charged, the Disciplinary Panel shall by a majority vote determine whether or not the employee or prospective employee is guilty of the offense or offenses charged. If it determines that the

person charged is guilty, the Disciplinary Panel shall by a majority vote impose the penalty or prescribe the action to be taken by the Exchange in accordance with paragraph (a) or (b) of this rule. Any such determination shall be supported by a written statement setting forth (i) any act or practice in which such employee or prospective employee is found to have engaged or which such employee or prospective employee has been found to have omitted, (ii) the specific provision of the Securities Exchange Act of 1934, as amended, the rules and regulations thereunder, the Constitution or rules, procedures or policies of the Exchange, which any such act, practice or omission to act is deemed to violate and (iii) the penalty imposed or other action prescribed and the reasons therefore. Such written statement shall be served upon the person charged in the manner hereinbefore provided, and a copy thereof shall be sent to each member of the [Board of Governors] *Amex Adjudicatory Council*. The determination of the Disciplinary Panel and any penalty or other action prescribed shall become final and conclusive twenty days after notification thereof to the person charged, provided, however, that if a request for review of such determination, or of any penalty or other action prescribed by the Disciplinary Panel, is filed in writing with the Secretary of the Exchange as provided in paragraph (e) of this rule, the penalty or other action prescribed by the Disciplinary Panel shall be stayed pending the result of such review.

(f) Any person determined to be guilty of a charge or charges before an Exchange Disciplinary Panel pursuant to this rule may obtain a review of such determination or of any penalty or other action prescribed by the Disciplinary Panel in accordance with paragraph (a) or (b) of this rule, or of both the determination and such penalty or other action. Upon the request of any [four] member[s] of the [Board of Governors] *Amex Adjudicatory Council*, any determination by a Disciplinary Panel pursuant to this rule or any penalty or other action prescribed by such Disciplinary Panel, or both, shall be subject to review as hereinafter provided. A request for review of such determination, penalty or other action shall be made in writing and filed with the Secretary of the Exchange within twenty days after notification of the determination and penalty, if any, is served upon the person charged. The review of any disciplinary proceeding as herein provided [may] *shall* be conducted by the *Amex Adjudicatory Council* [Board of Governors, or in its discretion may be delegated to a committee of governors appointed by the Chairman with the approval of the Board]. In connection with any such review, the *Amex Adjudicatory Council* [Board or the review committee, as the case may be,] may affirm any determination by the Disciplinary Panel or sustain any penalty or other action prescribed, or both, may modify or reverse any such determination, or may decrease or eliminate any penalty or other action prescribed in accordance with paragraph (a) or (b) of this rule, or impose any lesser penalty or prescribe any lesser action permitted under paragraph (a) or (b) of this rule, as it deems appropriate; or if the

Amex Adjudicatory Council [Board or such review committee] shall determine that the Disciplinary Panel has not adequately considered all of the matters which should have been considered in connection with the charge or charges, or has improperly applied or interpreted the Constitution, rules, requirements and policies of the Exchange, or has prescribed action or has imposed a penalty or penalties which the *Amex Adjudicatory Council* [Board or such review committee] determines to be inadequate in light of all the circumstances, the *Amex Adjudicatory Council* [Board or such review committee] may remand the matter to the Disciplinary Panel for further consideration consistent with such determination. Upon such remand, the Disciplinary Panel shall conduct a further hearing in accordance with the provisions of this rule and may as a result thereof modify, reverse or reaffirm its previous determination or prescribe any action or impose any penalty permitted under paragraph (a) or (b) of this rule regardless of whether such action or penalty shall be greater than the action prescribed or penalty imposed as a result of the original hearing. Any determination, action prescribed or penalty imposed by the Disciplinary Panel as a result of a remand from the *Amex Adjudicatory Council* [Board or a review committee, as the case may be,] shall be subject to further review upon request as hereinabove provided. [If, upon review, the matter is not remanded to the Disciplinary Panel, the determination and the penalty or other action prescribed, if any, by the Board or the review committee, as the case may be, shall be final and conclusive.]

The Amex Adjudicatory Council shall transmit its proposed written decision to each member of the Board of Governors. The Board may call the proceeding for review pursuant to paragraph (g) of this rule. If the Board does not call the proceeding for review, the proposed written decision of the Amex Adjudicatory Council shall become final. Unless the Amex Adjudicatory Council remands the proceeding, the decision shall constitute the final action of the Exchange.

(g) Upon the request of any four of its members, the Board of Governors may review a proposed written decision of the Amex Adjudicatory Council. Such a request for review shall be made not later than the next meeting of the Board of Governors that is at least 15 days after that date on which the proposed written decision of the Amex Adjudicatory Council is transmitted to the Board. By a unanimous vote of the Board of Governors, the Board may shorten the period to less than 15 days. By an affirmative vote of the majority of the Board then in office, the Board may, during the 15 day period, vote to extend the period to more than 15 days. The review by the Board of Governors shall occur not later than the next regularly scheduled meeting of the Board following the request for review. Ten Governors shall be required to constitute a quorum for any meeting of the Board at which the Board shall review a disciplinary proceeding as herein provided, and any action taken pursuant to the vote of a majority of the Governors present at such meeting shall be deemed to be the action of the Board.

After review, the Board of Governors may affirm, modify, or reverse the proposed written decision of the Amex Adjudicatory Council. Alternatively, the Board of Governors may remand the proceeding with instructions. The decision of the Board of Governors shall constitute the final action of the Exchange, unless the Board remands the proceedings.

(h)[(g)] If any employee or prospective employee of a member or member organization is suspended or expelled from any other securities exchange or any national securities association, or is suspended or barred from being associated with any member of such exchange or association, or is suspended or barred by any governmental securities agency from dealing in securities or being associated with any broker or dealer in securities, the Exchange may, in view of such suspension, expulsion or bar, suspend or withdraw its approval of, or disapprove, his employment by a member or member organization, but no such suspension imposed by the Exchange shall commence before or expire after the suspension imposed by such other exchange, association or agency, and no such withdrawal of approval and no such disapproval shall be imposed by the Exchange unless such employee or prospective employee has been expelled or barred by such other exchange, association or agency. Nothing in this paragraph (h) [(f)] shall preclude any proceeding against any employee or prospective employee under the foregoing provisions of this Rule 345. In any proceeding under this paragraph (h) [(f)], the method of procedure required by paragraphs (c) and (d) of this rule shall not apply, but the employee or prospective employee shall be given not less than ten days' notice in writing of a hearing before an Exchange Disciplinary Panel to determine whether or not the Exchange shall suspend or withdraw its approval of, or disapprove, as the case may be, his employment by a member or member organization, as provided herein. At such hearing, the employee or prospective employee shall be afforded an opportunity to explain why it would be inappropriate for the Exchange to accept the finding of such other exchange, association or agency or to suspend or withdraw its approval of, or disapprove, his employment, notwithstanding his suspension, expulsion or bar by such other exchange, association or agency. The Disciplinary Panel shall thereupon on behalf of the Exchange determine the matter by a majority vote. In the event that the Disciplinary Panel determines that the Exchange should not accept the finding of guilt by such other exchange, association or agency, it may order a proceeding under any other paragraph of this rule. In the event that the employee or prospective employee fails or refuses to appear at such hearing, the Disciplinary Panel may nevertheless determine the matter and suspend or withdraw Exchange approval of, or disapprove, his employment or prospective employment as provided herein. If the Disciplinary Panel determines to accept the finding by such other exchange, association or agency and to suspend or withdraw its approval of, or disapprove, the employment of such employee or prospective

employee by a member or member organization such determination shall be supported by a written statement setting forth the specific grounds for such action. Such written statement shall be served upon the employee or prospective employee in the manner hereinbefore provided by paragraph (c) of this rule and a copy thereof shall be sent to each member of the Amex Adjudicatory Council [Board of Governors]. Any action by an Exchange Disciplinary Panel pursuant to this paragraph (h) [(f)] shall be subject to review in accordance with the procedures specified in paragraphs (f) and (g) [(e)] of this rule. In the event no request for review is filed within twenty days after the employee or prospective employee is notified of the determination of the Disciplinary Panel, such determination shall become final and conclusive. Notwithstanding the foregoing, the employee or prospective employee may, nevertheless, consent to the penalty that the Exchange suspend or withdraw its approval of, or disapprove, his employment or prospective employment by a member or member organization solely by reason of the imposition of such penalty by such other exchange, association or agency, and without either the separate determination of an Exchange Disciplinary Panel as provided above in this paragraph (h) [(f)] or the procedure provided for in the foregoing paragraphs of this rule. Such consent shall be in writing, signed by the employee or prospective employee, and shall be delivered to the Exchange not later than two business days after the Exchange gives notice in writing to him that it intends to proceed under Rule 345(h) [(f)]. The consent shall take effect immediately upon approval by the Exchange.

(i)[(h)] In accordance with rules adopted by the Board of Governors, the Exchange may publicly disclose its disapproval or suspension or withdrawal of approval of the employment of any employee or prospective employee of a member or member organization and it may publicly disclose any fine, censure or other determination, provided, however, that no such disclosure shall be permitted until there has been a final determination of the matter.

(j)[(i)] Unless otherwise directed by the Amex Adjudicatory Council [Board of Governors], a copy of any accusation under paragraph (c) of this rule or a copy of any notice of hearing under paragraph (h) [(f)] of this rule served on an employee or a prospective employee of a member or member organization shall be furnished to his employer or prospective employer and a representative of the employer or prospective employer may be present at the hearing of the matter.

(k)[(j)] In lieu of the procedures set forth in paragraph (d) of this rule, an Exchange Disciplinary Panel, selected in accordance with the provisions of Section[s] 1(b)[(1) and 1(b)(2)] of Article V of the Constitution, at a hearing called for that purpose may determine whether an employee or prospective employee of a member or member organization is guilty of having committed an offense or offenses on the basis of a written stipulation of facts and consent to a specified penalty entered into between

such employee or prospective employee and any officer of the Exchange, and may fix and impose the penalty or prescribe such other action to be taken by the Exchange in accordance with paragraph (a) or (b) of this rule as shall be agreed to in such stipulation and consent, or impose any lesser action permitted under paragraph (a) or (b) of this rule. A written notice of the result shall be served upon the employee or prospective employee in the manner provided in paragraph (c) of this rule and a copy thereof shall be sent to each member of the Amex Adjudicatory Council [Board of Governors]. The determination of the Disciplinary Panel and any penalty or other action prescribed shall become final and conclusive ten days after notification thereof to the employee or prospective employee, provided, however, that if a request for review of such determination or, of any penalty or other action prescribed by the Disciplinary Panel, is filed as hereinafter provided, the penalty or other action prescribed by the Disciplinary Panel shall be stayed pending the result of such review. If the Disciplinary Panel rejects the stipulation and consent to a specified penalty, the matter shall proceed as if the stipulation and consent had not been entered into, and such stipulation and consent shall be disregarded in any subsequent proceeding. A written notice of such rejection by the Disciplinary Panel shall be served upon the employee or prospective employee in the manner provided in paragraph (c) of this rule.

Upon the request of any [four] member[s] of the Amex Adjudicatory Council [Board of Governors], the Amex Adjudicatory Council [Board] shall review the determination of, or the penalty or other action prescribed by, a Disciplinary Panel in connection with a written stipulation of facts and consent to a specified penalty. A request for review by the Amex Adjudicatory Council [Board] of such determination, penalty or other action shall be made in writing and filed with the Secretary of the Exchange within ten days after notification of the determination and penalty, if any, is served upon the employee or prospective employee. Upon review, the Amex Adjudicatory Council [Board] may fix and impose the penalty or prescribe such action to be taken by the Exchange in accordance with paragraph (a) or (b) of this rule as shall have been agreed to in such stipulation and consent, impose any lesser penalty or prescribe any lesser action permitted under paragraph (a) or (b) of this rule, or reject each stipulation and consent, as it deems appropriate. The quorum and vote required for such action by the Amex Adjudicatory Council [Board] shall be the quorum and vote provided in Section 6(h) of Article II [Section 1(b)(5) of Article V] of the Constitution.

(k) *renumbered as (l)*. No other change.

* * * * *

D. Office Rules

Minor Rule Violation Fine Systems

Rule 590. Minor Rule Violation Fine Systems

Part 1 General Rule Violations

(a) & (b). No change.

(c) If the person against whom a fine is imposed pays the fine, such payment will be deemed to be a waiver of such person's right to a hearing before an Exchange Disciplinary Panel and to an appeal to the *Amex Adjudicatory Council* [Board of Governors of the Exchange].

(d) through (h). No change.

Part 2 Floor Decorum Violations

(a) through (c). No change.

(d) If the person against whom a fine is imposed pays the fine, such payment will be deemed to be a waiver of such person's right to a hearing before an Exchange Disciplinary Panel and to an appeal to the *Amex Adjudicatory Council* [Board of Governors of the Exchange].

(e) through (g). No change.

Part 3 Reporting Violations

(a) & (b). No change.

(c) If the person against whom a fine is imposed pays the fine, such payment will be deemed to be a waiver of such person's right to a hearing before an Exchange Disciplinary Panel and to an appeal to the *Amex Adjudicatory Council* [Board of Governors of the Exchange].

(d) through (g). No change.

* * * Commentary. No change.

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E. Arbitration

Arbitration Rules

Rule 600. Arbitration

Commentary .01: Amex Rules 600 through 624 only apply to arbitrations commenced prior to (insert date of Closing) and are otherwise of no force or effect. Article VIII, Sec. 2 of the Exchange Constitution provides that arbitration shall be conducted pursuant to the NASD Code of Arbitration Procedure, except that, if all parties to the controversy are members, allied members or member corporations of the New York Stock Exchange, any party may elect to arbitrate under the arbitration procedures of that exchange. Any violation of the NASD Code of Arbitration Procedure by members or member organizations arbitrating thereunder would be deemed a violation of Exchange rules and subject the violator to Exchange disciplinary procedures.

Rules 600 through 624. No change.

* * * * *

K. Exchange Disciplinary Proceedings

Rule 8. Record of Proceedings

(a). No change.

(b) Where a meeting of a Disciplinary Panel has been convened pursuant to Article V,

Section 2 of the Exchange Constitution or Exchange Rule 345(k) [(i)] for the purpose of considering a written stipulation of facts and consent to a specified penalty, a record may be made by tape recording. Records of such meetings need not be transcribed except upon the request of a party to the proceeding, the Exchange or the Panel, or upon a request by the *Amex Adjudicatory Council* [Board of Governors] for review of the determination of the Panel.

Rule 9. Requests for Review

A request by a party for review of a determination by a Disciplinary Panel shall state the specific decisions of the Panel with respect to which objection is made, and any decision of the Panel which is not expressly objected to in such request shall be deemed accepted by the party making the request. Upon the filing by a party of a request for review of a determination by a Disciplinary Panel, such party shall have twenty days thereafter in which to file with the Secretary of the Exchange any brief and supporting documents for submission to the *Amex Adjudicatory Council* [Board of Governors or review committee, as the case may be]. The representative of the Exchange shall have an additional twenty days thereafter in which to file an answering brief and supporting documents in connection with such review. If a request for review of a determination by a Disciplinary Panel is initiated by members of the *Amex Adjudicatory Council* [Board of Governors], all briefs and supporting documents to be submitted by the parties must be filed with the Secretary of the Exchange within twenty days after notice of such request is served upon them. The *Amex Adjudicatory Council* [Board of Governors or the review committee, as the case may be.] shall determine in each instance whether it will hear oral argument in connection with any such review.

* * * * *

Amex Company Guide Listing Standards—Policies—Requirements

Part 10. Suspension and Delisting—Suspension and Delisting Procedures

Sec. 1010. Delisting Procedures

Whenever the Exchange determines that it is appropriate to consider removing a security from listing (or from unlisted trading) for other than routine reasons (such as redemptions, maturities, etc.), it will follow, insofar as practicable, the following procedures:

(a) No change.

(b) If, after such conference, the Exchange determines that the security should be

removed, it will notify the company in writing, indicating the basis for such decision and the specific delisting policies and guidelines under which action will be taken. Such notice will also inform the company that it may appeal to the Board of Governors of the Exchange, *or such committee or committees as the Board may authorize, and request a hearing.*

(c) through (f) No change.

(g) After the conclusion of the company's presentation, the committee will determine whether or not to recommend to the Board of Governors that the security be removed from listing (or unlisted trading). If the committee determines to recommend removal of the security from listing (or unlisted trading), such recommendation shall be sent to the Board of Governors for its consideration. The Board of Governors may authorize a *review committee* [the Executive Committee] to consider any or all appeals from decisions of the Exchange, and in such case the decision of the *review committee* [Executive Committee] with respect thereto shall be final and conclusive. A governor who serves on the committee or is present at the hearing will not as a result thereof be prohibited from voting on the recommendation when it is considered by the Board of Governors or by the *review committee* [Executive Committee], as the case may be.

(h) If the Board of Governors or the *review committee* [Executive Committee], as the case may be, shall approve the recommendation of the committee which has heard the matter, an application shall be submitted by the Exchange to the SEC to strike the security from listing (or unlisted trading) and a copy of such application shall be furnished to the issuer in accordance with Section 12 of the Securities Exchange Act of 1934 and the rules promulgated thereunder.

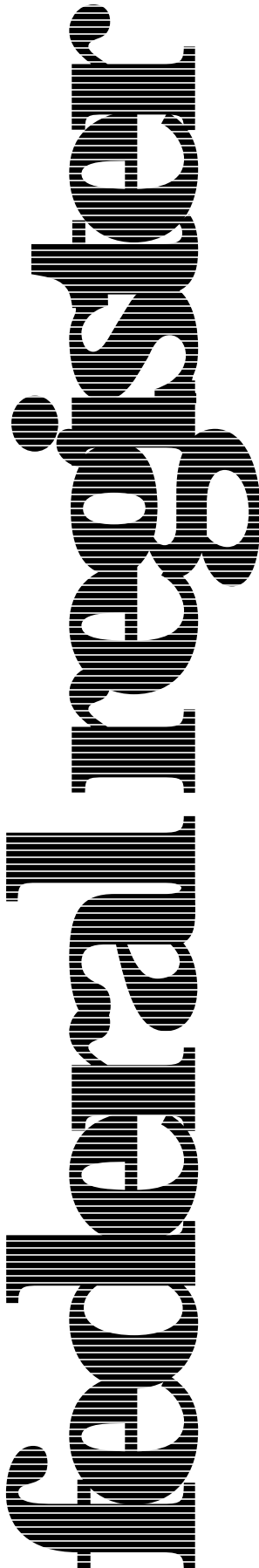
The action required to be taken by the Exchange to strike a security from listing and registration for routine reasons, such as redemption, maturity and retirement, is set forth in Rule 12d2-2(a) promulgated under the Securities Exchange Act.

The relevant portions of the Section and Rules under such Act pertaining to the suspension, removal or withdrawal of securities for all other reasons, and the requirements of the Exchange (Rule 18) applicable in certain cases, are summarized below:

(a) through the end of Section 1010. No change.

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Thursday
September 17, 1998

Part IV

Department of Education

34 CFR Parts 674 and 682
Federal Perkins Loan Program and
Federal Family Education Loan Program;
Proposed Rule

DEPARTMENT OF EDUCATION**34 CFR Parts 674 and 682****Federal Perkins Loan Program and Federal Family Education Loan Program**

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to simplify the economic hardship deferment application process for those Peace Corps volunteers who are ineligible for deferment or cancellation of their federal student loans based solely on service in the Peace Corps, the Secretary proposes to amend the Federal Perkins Loan and Federal Family Education Loan (FFEL) program regulations by adding criteria that will allow Peace Corps volunteers to automatically qualify for economic hardship deferments while they are serving in the Peace Corps. The proposed changes will also apply to the William D. Ford Federal Direct Loan (Direct Loan) Program.

The Secretary also proposes to amend the Federal Perkins Loan Program regulations by eliminating provisions that require borrowers to submit requests for loan deferments and postponements in writing. The proposed changes will make the Federal Perkins Loan Program requirements more consistent with the requirements that apply in the FFEL and Direct Loan programs.

DATES: Comments must be received on or before October 30, 1998.

ADDRESSES: All comments concerning these proposed regulations should be addressed to: Mr. Jon Utz, U.S. Department of Education, PO Box 23272, Washington, DC 20026-3272, or to the following internet address: peacecorps@ed.gov. You must include the term "Peace Corps" in the subject line of your electronic message.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of these comments may also be sent to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT:

1. For the Federal Perkins Loan Program: Ms. Sylvia Ross, U.S. Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

2. For the FFEL Program: Mr. George Harris, U.S. Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

3. For the Direct Loan Program: Mr. Jon Utz, Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3045, Regional Office Building 3, 7th and D Streets, SW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any

regulatory burdens found in these proposed regulations.

General

The Peace Corps has requested that the Secretary provide a less burdensome means for borrowers who are not eligible for a statutory loan deferment or cancellation based on Peace Corps service to apply for economic hardship deferments of their federal student loans while serving in the Peace Corps. The Secretary believes that the service performed by Peace Corps volunteers is important to the national interest, and is proposing to amend the economic hardship deferment eligibility criteria in the federal student loan programs in response to that request. The Secretary is also proposing changes that will make the requirements for requesting a loan deferment or postponement in the Federal Perkins Loan Program more consistent with the requirements that apply in the FFEL and Direct Loan programs. A discussion of each proposed change is provided below.

Sections 674.34 and 682.210 Deferment

In the Federal Perkins Loan Program, which includes National Defense Student Loans (Defense Loans), National Direct Student Loans (NDSLs), and Federal Perkins Loans, the vast majority of borrowers are eligible for categorical deferments based on service as Peace Corps volunteers. Specifically, all Defense Loan borrowers, borrowers with NDSLs made before July 1, 1993, and all Federal Perkins Loan borrowers may defer repayment while serving as Peace Corps volunteers. For Federal Perkins Loan borrowers only, service as a Peace Corps volunteer also qualifies a borrower for loan cancellation. In the FFEL and Direct Loan programs, certain borrowers who received loans prior to July 1, 1993 are entitled by law to defer repayment of their loans while serving as Peace Corps volunteers.

Borrowers who are ineligible for loan deferment or cancellation based on service as Peace Corps volunteers are:

- (1) The small number of borrowers who received NDSLs on or after July 1, 1993;
- (2) FFEL Program borrowers who received loans first disbursed on or after July 1, 1993 and who, at the time they obtained those loans, had no outstanding balance on any FFEL Program loan made before that date; and
- (3) Direct Loan Program borrowers who, at the time they received their first Direct Loans, had no outstanding balance on any FFEL Program loan made before July 1, 1993. In all three loan programs, borrowers who wish to defer repayment of their loans while serving as Peace Corps volunteers, but

who are ineligible for a deferment or cancellation based on Peace Corps service, may apply for deferments based on economic hardship.

The Peace Corps has brought to the Secretary's attention the fact that Peace Corps volunteers who are ineligible for loan deferment or cancellation based on Peace Corps service qualify for economic hardship deferments in the federal student loan programs based on the low monthly stipends that they receive. However, the Peace Corps believes that the unique circumstances under which Peace Corps volunteers serve—in foreign countries, often in inaccessible areas—make it difficult for them to apply for economic hardship deferments in accordance with the requirements imposed by current regulations.

Section 674.34(e) of the Federal Perkins Loan Program regulations establishes the economic hardship deferment eligibility criteria for borrowers with Federal Perkins Loans and NDSLs made on or after July 1, 1993. Section 682.210(s)(6) of the FFEL Program regulations establishes the criteria by which a "new borrower" as defined under § 682.210(s) is eligible for an economic hardship deferment. In accordance with § 685.204(b)(3)(ii) of the Direct Loan Program regulations, economic hardship deferment eligibility for all Direct Loan borrowers is based on the standards set forth in the FFEL Program regulations at § 682.210(s)(6).

Under § 674.34(e)(3) and § 682.210(s)(6)(iii), borrowers are eligible for an economic hardship deferment if they are working full-time and earning a total monthly gross income that does not exceed the greater of the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938, or 100 percent of the poverty line for a family of two, as determined in accordance with section 673(2) of the Community Service Block Grant Act. Peace Corps volunteers currently receive monthly living stipends and other smaller allowances that vary according to the country to which they are assigned. Based on an analysis of data provided by the Peace Corps and current minimum wage rate and poverty line amounts, the Secretary has determined that Peace Corps volunteers meet the criteria for economic hardship deferment under § 674.34(e)(3) and § 682.210(s)(6)(iii).

Federal Perkins Loan Program borrowers who apply for an economic hardship deferment based on the income requirements specified in § 674.34(e)(3) are required by § 674.34(e) to provide documentation showing that they meet those requirements. In

accordance with § 682.210(s)(6)(vii) of the FFEL Program regulations, FFEL and Direct Loan borrowers who apply for an economic hardship deferment under § 682.210(s)(6)(iii) are required to submit evidence showing the amount of their most recent total monthly gross income. In all three loan programs, economic hardship deferments are limited to periods of up to one year at a time that, collectively, do not exceed three years. See § 674.34(e), § 674.38(d), and § 682.210(s)(6). The maximum three year limitation is mandated by sections 428(b)(1)(M)(iii), 455(f)(2)(C), and 464(c)(2)(A)(iii) of the Higher Education Act of 1965, as amended (the HEA). A borrower who applies for a subsequent period of economic hardship deferment that begins less than one year after a deferment granted under § 674.34(e)(3) or § 682.210(s)(6)(iii) is required by § 674.34(e)(7) and § 682.210(s)(6)(viii) to provide a copy of the borrower's federal income tax return, if a tax return was filed within eight months prior to the date of the deferment request.

Peace Corps volunteers generally do not have documentation of the amount of their monthly stipend for living expenses prior to beginning their volunteer service. Since Peace Corps volunteers serve overseas, often in remote areas of underdeveloped countries, the current requirement that borrowers submit documentation of their most recent monthly gross income when applying for economic hardship deferments presents significant logistical difficulties for many volunteers. For the same reason, the provisions that limit individual economic hardship deferments to periods of one year at a time are burdensome for Peace Corps volunteers, who normally serve for a period of 27 months. Under current regulatory requirements, they must reapply for an economic hardship deferment each year, and must submit additional income documentation with each deferment request.

The Secretary has the authority under § 435(o) of the HEA to establish criteria by which borrowers may qualify for economic hardship deferments in the Federal Perkins Loan, FFEL, and Direct Loan programs. Because Peace Corps volunteers meet current regulatory requirements for economic hardship deferments based on the modest stipends that they receive, and because of the unique circumstances under which they serve, the Secretary believes that it is appropriate and in the national interest to establish new criteria that will make it easier for Peace Corps volunteers to apply for economic hardship deferments. The new

economic hardship criteria that the Secretary is proposing are consistent with this provision of the HEA.

The proposed changes will allow Peace Corps volunteers who are ineligible for deferment or cancellation based on Peace Corps service to qualify for economic hardship deferments simply by providing documentation showing that they will be serving as Peace Corps volunteers. Since this documentation will be available to Peace Corps volunteers at pre-service orientation sessions, they will be able to apply for economic hardship deferments while still in the United States. In addition, the Secretary is proposing to eliminate the one-year-at-a-time restriction for economic hardship deferments based on service as a Peace Corps volunteer. This will allow Peace Corps volunteers who have not previously received economic hardship deferments to defer repayment of their loans for up to three years, or for their full term of service in the Peace Corps, whichever is less, without having to reapply each year. Peace Corps volunteers who have received previous economic hardship deferments may defer repayment of their loans for up to their remaining period of eligibility under the statutory three-year limitation, or for their full term of service, whichever is less.

Section 674.38 (Deferment Procedures) and § 674.39 (Postponement of Loan Repayments in Anticipation of Cancellation—Loans Made Before July 1, 1993)

The Secretary believes that, to the extent possible, the requirements for requesting a deferment in the Federal Perkins Loan Program, the FFEL Program, and the Direct Loan Program should be the same. For this reason, the Secretary is proposing to amend § 674.38 and § 674.39 by revising paragraph (a)(1) in each section to eliminate the requirement that a borrower request a deferment or postponement of repayment of a loan in writing. The Secretary believes that a telephone or electronic request to the institution from the borrower is sufficient to initiate the deferment/postponement process. The proposed changes reduce burden for both borrowers and institutions, and make the Federal Perkins Program regulations more consistent with the less restrictive regulations in the FFEL and Direct Loan programs.

Executive Order 12866*1. Potential Costs and Benefits*

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering these programs effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

2. Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 682.210 *Deferment*.) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Mr. Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW, Room 5121, FB-10B, Washington, DC 20202-2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities affected by these proposed regulations are small schools and loan holders that participate in the federal student loan programs.

The changes proposed in this regulation would reduce administrative burden on schools and loan holders by allowing them to process economic hardship deferments for eligible Peace Corps volunteers for more than one year at a time, and would provide schools participating in the Federal Perkins Loan Program with greater flexibility in processing deferment requests. Thus, the proposed regulations are not expected to have an adverse economic impact on small entities.

The Secretary particularly invites comments on the effect that these proposed regulations would have on small entities.

Paperwork Reduction Act of 1995

Sections 674.34 and 682.210 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program—Economic Hardship Deferments.

There is no change to the current burden for this collection. The respondents affected by the proposed regulations (Peace Corps volunteers with federal student loans who are ineligible for loan deferment or cancellation based on Peace Corps service) may currently apply for economic hardship deferments in accordance with existing regulatory requirements. The proposed changes to the economic hardship deferment criteria are not expected to increase the number of respondents or significantly reduce the amount of time needed to respond. Although the documentation requirements for Peace Corps volunteers who apply for economic hardship deferments in the three federal student loan programs will be somewhat simplified, and Peace Corps volunteers will be required to apply only once instead of annually, the Secretary does not believe that the number of volunteers with student loans who apply for economic hardship deferments is large enough to significantly alter the total burden hours for this collection.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC, 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

The Federal Perkins Loan, Federal Family Education Loan, and William D. Ford Federal Direct Loan programs are not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Parts 674 and 682

Administrative practice and procedure, Colleges and universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: September 10, 1998.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.032 Stafford Loan Program; 84.032 PLUS Program; 84.032 Supplemental Loans for Students Program; 84.038 Federal Perkins Loan Program; and 84.268 William D. Ford Federal Direct Loan Program)

The Secretary proposes to amend parts 674 and 682 of title 34 of the Code of Federal Regulations as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

1. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087ii and 20 U.S.C. 421–429, unless otherwise noted.

2. Section 674.34 is amended by revising paragraphs (e) and (e)(2) to read as follows:

§ 674.34 Deferment of repayment—Federal Perkins loans and Direct Loans made on or after July 1, 1993.

* * * * *

(e) The borrower need not repay principal, and interest does not accrue, for periods of up to one year at a time (except that a deferment under paragraph (2)(ii) of this section may be granted for longer than one year at a time) that, collectively, do not exceed 3 years, during which the borrower is suffering an economic hardship, if the borrower provides documentation satisfactory to the institution showing that the borrower—

* * * * *

(2) Is receiving payment—

(i) Under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance; or

(ii) From the Peace Corps while serving as a Peace Corps volunteer;

* * * * *

3. Section 674.38 is amended by revising paragraphs (a)(1) and (d) to read as follows:

§ 674.38 Deferment procedures.

(a)(1) As a condition for receiving a deferment, a borrower shall request the deferment, and provide the institution with all information and documents required by the institution by the date that the institution establishes.

* * * * *

(d) Except for a deferment under paragraph (2)(ii) of section 674.34, the institution shall determine the

continued eligibility of a borrower for a deferment at least annually.

§ 674.39 [Amended]

4. Section 674.39, paragraph (a)(1), is amended by removing the words “in writing”.

PART 682—FEDERAL FAMILY EDUCATION LOAN PROGRAM

5. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

6. Section 682.210 is amended by revising paragraph (s)(6) introductory text and (s)(6)(ii) to read as follows:

§ 682.210 Deferment.

* * * * *

(s) * * *

(6) *Economic hardship deferment.* An eligible borrower is entitled to an economic hardship deferment for periods of up to one year at a time (except that a deferment under paragraph (s)(6)(ii)(B) of this section may be granted for longer than one year at a time) that, collectively, do not exceed 3 years, if the borrower provides documentation satisfactory to the lender showing that the borrower—

* * * * *

(ii) Is receiving payment—

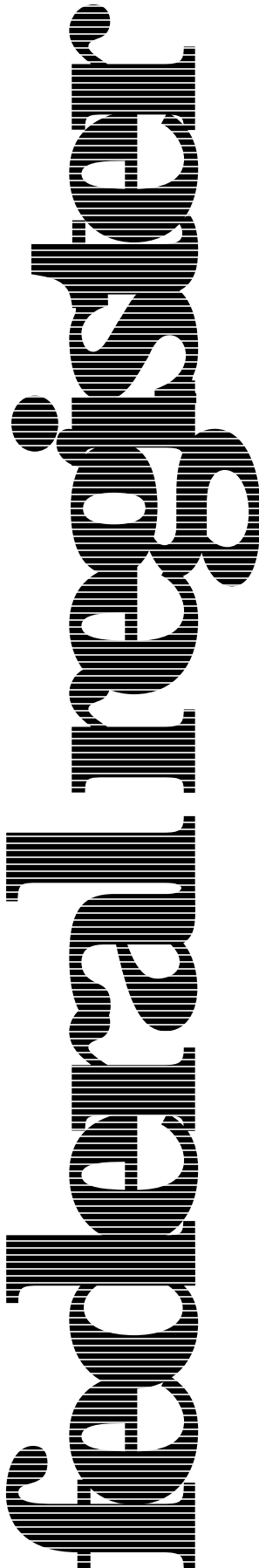
(A) Under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance; or

(B) From the Peace Corps while serving as a Peace Corps volunteer;

* * * * *

[FR Doc. 98–24866 Filed 9–16–98; 8:45 am]

BILLING CODE 4000–01–P



Thursday
September 17, 1998

Part IV

Department of Education

34 CFR Parts 674 and 682
Federal Perkins Loan Program and
Federal Family Education Loan Program;
Proposed Rule

DEPARTMENT OF EDUCATION**34 CFR Parts 674 and 682****Federal Perkins Loan Program and Federal Family Education Loan Program**

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: In order to simplify the economic hardship deferment application process for those Peace Corps volunteers who are ineligible for deferment or cancellation of their federal student loans based solely on service in the Peace Corps, the Secretary proposes to amend the Federal Perkins Loan and Federal Family Education Loan (FFEL) program regulations by adding criteria that will allow Peace Corps volunteers to automatically qualify for economic hardship deferments while they are serving in the Peace Corps. The proposed changes will also apply to the William D. Ford Federal Direct Loan (Direct Loan) Program.

The Secretary also proposes to amend the Federal Perkins Loan Program regulations by eliminating provisions that require borrowers to submit requests for loan deferments and postponements in writing. The proposed changes will make the Federal Perkins Loan Program requirements more consistent with the requirements that apply in the FFEL and Direct Loan programs.

DATES: Comments must be received on or before October 30, 1998.

ADDRESSES: All comments concerning these proposed regulations should be addressed to: Mr. Jon Utz, U.S. Department of Education, PO Box 23272, Washington, DC 20026-3272, or to the following internet address: peacecorps@ed.gov. You must include the term "Peace Corps" in the subject line of your electronic message.

Comments that concern information collection requirements must be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of these comments may also be sent to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT:

1. For the Federal Perkins Loan Program: Ms. Sylvia Ross, U.S. Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

2. For the FFEL Program: Mr. George Harris, U.S. Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

3. For the Direct Loan Program: Mr. Jon Utz, Department of Education, 600 Independence Avenue, SW, ROB-3, Room 3045, Washington, DC 20026-3272, telephone 202-708-8242.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:**Invitation to Comment**

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges commenters to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange comments in the same order as the proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3045, Regional Office Building 3, 7th and D Streets, SW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205-8113 or (202) 260-9895. An individual who uses a TDD may call the Federal Information Relay Service at 1-800-877-8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any

regulatory burdens found in these proposed regulations.

General

The Peace Corps has requested that the Secretary provide a less burdensome means for borrowers who are not eligible for a statutory loan deferment or cancellation based on Peace Corps service to apply for economic hardship deferments of their federal student loans while serving in the Peace Corps. The Secretary believes that the service performed by Peace Corps volunteers is important to the national interest, and is proposing to amend the economic hardship deferment eligibility criteria in the federal student loan programs in response to that request. The Secretary is also proposing changes that will make the requirements for requesting a loan deferment or postponement in the Federal Perkins Loan Program more consistent with the requirements that apply in the FFEL and Direct Loan programs. A discussion of each proposed change is provided below.

Sections 674.34 and 682.210 Deferment

In the Federal Perkins Loan Program, which includes National Defense Student Loans (Defense Loans), National Direct Student Loans (NDSLs), and Federal Perkins Loans, the vast majority of borrowers are eligible for categorical deferments based on service as Peace Corps volunteers. Specifically, all Defense Loan borrowers, borrowers with NDSLs made before July 1, 1993, and all Federal Perkins Loan borrowers may defer repayment while serving as Peace Corps volunteers. For Federal Perkins Loan borrowers only, service as a Peace Corps volunteer also qualifies a borrower for loan cancellation. In the FFEL and Direct Loan programs, certain borrowers who received loans prior to July 1, 1993 are entitled by law to defer repayment of their loans while serving as Peace Corps volunteers.

Borrowers who are ineligible for loan deferment or cancellation based on service as Peace Corps volunteers are:

- (1) The small number of borrowers who received NDSLs on or after July 1, 1993;
- (2) FFEL Program borrowers who received loans first disbursed on or after July 1, 1993 and who, at the time they obtained those loans, had no outstanding balance on any FFEL Program loan made before that date; and
- (3) Direct Loan Program borrowers who, at the time they received their first Direct Loans, had no outstanding balance on any FFEL Program loan made before July 1, 1993. In all three loan programs, borrowers who wish to defer repayment of their loans while serving as Peace Corps volunteers, but

who are ineligible for a deferment or cancellation based on Peace Corps service, may apply for deferments based on economic hardship.

The Peace Corps has brought to the Secretary's attention the fact that Peace Corps volunteers who are ineligible for loan deferment or cancellation based on Peace Corps service qualify for economic hardship deferments in the federal student loan programs based on the low monthly stipends that they receive. However, the Peace Corps believes that the unique circumstances under which Peace Corps volunteers serve—in foreign countries, often in inaccessible areas—make it difficult for them to apply for economic hardship deferments in accordance with the requirements imposed by current regulations.

Section 674.34(e) of the Federal Perkins Loan Program regulations establishes the economic hardship deferment eligibility criteria for borrowers with Federal Perkins Loans and NDSLs made on or after July 1, 1993. Section 682.210(s)(6) of the FFEL Program regulations establishes the criteria by which a "new borrower" as defined under § 682.210(s) is eligible for an economic hardship deferment. In accordance with § 685.204(b)(3)(ii) of the Direct Loan Program regulations, economic hardship deferment eligibility for all Direct Loan borrowers is based on the standards set forth in the FFEL Program regulations at § 682.210(s)(6).

Under § 674.34(e)(3) and § 682.210(s)(6)(iii), borrowers are eligible for an economic hardship deferment if they are working full-time and earning a total monthly gross income that does not exceed the greater of the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938, or 100 percent of the poverty line for a family of two, as determined in accordance with section 673(2) of the Community Service Block Grant Act. Peace Corps volunteers currently receive monthly living stipends and other smaller allowances that vary according to the country to which they are assigned. Based on an analysis of data provided by the Peace Corps and current minimum wage rate and poverty line amounts, the Secretary has determined that Peace Corps volunteers meet the criteria for economic hardship deferment under § 674.34(e)(3) and § 682.210(s)(6)(iii).

Federal Perkins Loan Program borrowers who apply for an economic hardship deferment based on the income requirements specified in § 674.34(e)(3) are required by § 674.34(e) to provide documentation showing that they meet those requirements. In

accordance with § 682.210(s)(6)(vii) of the FFEL Program regulations, FFEL and Direct Loan borrowers who apply for an economic hardship deferment under § 682.210(s)(6)(iii) are required to submit evidence showing the amount of their most recent total monthly gross income. In all three loan programs, economic hardship deferments are limited to periods of up to one year at a time that, collectively, do not exceed three years. See § 674.34(e), § 674.38(d), and § 682.210(s)(6). The maximum three year limitation is mandated by sections 428(b)(1)(M)(iii), 455(f)(2)(C), and 464(c)(2)(A)(iii) of the Higher Education Act of 1965, as amended (the HEA). A borrower who applies for a subsequent period of economic hardship deferment that begins less than one year after a deferment granted under § 674.34(e)(3) or § 682.210(s)(6)(iii) is required by § 674.34(e)(7) and § 682.210(s)(6)(viii) to provide a copy of the borrower's federal income tax return, if a tax return was filed within eight months prior to the date of the deferment request.

Peace Corps volunteers generally do not have documentation of the amount of their monthly stipend for living expenses prior to beginning their volunteer service. Since Peace Corps volunteers serve overseas, often in remote areas of underdeveloped countries, the current requirement that borrowers submit documentation of their most recent monthly gross income when applying for economic hardship deferments presents significant logistical difficulties for many volunteers. For the same reason, the provisions that limit individual economic hardship deferments to periods of one year at a time are burdensome for Peace Corps volunteers, who normally serve for a period of 27 months. Under current regulatory requirements, they must reapply for an economic hardship deferment each year, and must submit additional income documentation with each deferment request.

The Secretary has the authority under § 435(o) of the HEA to establish criteria by which borrowers may qualify for economic hardship deferments in the Federal Perkins Loan, FFEL, and Direct Loan programs. Because Peace Corps volunteers meet current regulatory requirements for economic hardship deferments based on the modest stipends that they receive, and because of the unique circumstances under which they serve, the Secretary believes that it is appropriate and in the national interest to establish new criteria that will make it easier for Peace Corps volunteers to apply for economic hardship deferments. The new

economic hardship criteria that the Secretary is proposing are consistent with this provision of the HEA.

The proposed changes will allow Peace Corps volunteers who are ineligible for deferment or cancellation based on Peace Corps service to qualify for economic hardship deferments simply by providing documentation showing that they will be serving as Peace Corps volunteers. Since this documentation will be available to Peace Corps volunteers at pre-service orientation sessions, they will be able to apply for economic hardship deferments while still in the United States. In addition, the Secretary is proposing to eliminate the one-year-at-a-time restriction for economic hardship deferments based on service as a Peace Corps volunteer. This will allow Peace Corps volunteers who have not previously received economic hardship deferments to defer repayment of their loans for up to three years, or for their full term of service in the Peace Corps, whichever is less, without having to reapply each year. Peace Corps volunteers who have received previous economic hardship deferments may defer repayment of their loans for up to their remaining period of eligibility under the statutory three-year limitation, or for their full term of service, whichever is less.

Section 674.38 (Deferment Procedures) and § 674.39 (Postponement of Loan Repayments in Anticipation of Cancellation—Loans Made Before July 1, 1993)

The Secretary believes that, to the extent possible, the requirements for requesting a deferment in the Federal Perkins Loan Program, the FFEL Program, and the Direct Loan Program should be the same. For this reason, the Secretary is proposing to amend § 674.38 and § 674.39 by revising paragraph (a)(1) in each section to eliminate the requirement that a borrower request a deferment or postponement of repayment of a loan in writing. The Secretary believes that a telephone or electronic request to the institution from the borrower is sufficient to initiate the deferment/postponement process. The proposed changes reduce burden for both borrowers and institutions, and make the Federal Perkins Program regulations more consistent with the less restrictive regulations in the FFEL and Direct Loan programs.

Executive Order 12866*1. Potential Costs and Benefits*

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering these programs effectively and efficiently. Burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

2. Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 682.210 *Deferment*.) (4) Is the description of the proposed regulations in the "Supplementary Information" section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Mr. Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW, Room 5121, FB-10B, Washington, DC 20202-2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities affected by these proposed regulations are small schools and loan holders that participate in the federal student loan programs.

The changes proposed in this regulation would reduce administrative burden on schools and loan holders by allowing them to process economic hardship deferments for eligible Peace Corps volunteers for more than one year at a time, and would provide schools participating in the Federal Perkins Loan Program with greater flexibility in processing deferment requests. Thus, the proposed regulations are not expected to have an adverse economic impact on small entities.

The Secretary particularly invites comments on the effect that these proposed regulations would have on small entities.

Paperwork Reduction Act of 1995

Sections 674.34 and 682.210 contain information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of these sections to the Office of Management and Budget (OMB) for its review.

Collection of Information: Federal Perkins Loan Program, Federal Family Education Loan Program, and William D. Ford Federal Direct Loan Program—Economic Hardship Deferments.

There is no change to the current burden for this collection. The respondents affected by the proposed regulations (Peace Corps volunteers with federal student loans who are ineligible for loan deferment or cancellation based on Peace Corps service) may currently apply for economic hardship deferments in accordance with existing regulatory requirements. The proposed changes to the economic hardship deferment criteria are not expected to increase the number of respondents or significantly reduce the amount of time needed to respond. Although the documentation requirements for Peace Corps volunteers who apply for economic hardship deferments in the three federal student loan programs will be somewhat simplified, and Peace Corps volunteers will be required to apply only once instead of annually, the Secretary does not believe that the number of volunteers with student loans who apply for economic hardship deferments is large enough to significantly alter the total burden hours for this collection.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, DC, 20503; Attention: Desk Officer for U.S. Department of Education.

The Department considers comments by the public on this proposed collection of information in—

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations.

Intergovernmental Review

The Federal Perkins Loan, Federal Family Education Loan, and William D. Ford Federal Direct Loan programs are not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Parts 674 and 682

Administrative practice and procedure, Colleges and universities, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: September 10, 1998.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.032 Stafford Loan Program; 84.032 PLUS Program; 84.032 Supplemental Loans for Students Program; 84.038 Federal Perkins Loan Program; and 84.268 William D. Ford Federal Direct Loan Program)

The Secretary proposes to amend parts 674 and 682 of title 34 of the Code of Federal Regulations as follows:

PART 674—FEDERAL PERKINS LOAN PROGRAM

1. The authority citation for part 674 continues to read as follows:

Authority: 20 U.S.C. 1087aa–1087ii and 20 U.S.C. 421–429, unless otherwise noted.

2. Section 674.34 is amended by revising paragraphs (e) and (e)(2) to read as follows:

§ 674.34 Deferment of repayment—Federal Perkins loans and Direct Loans made on or after July 1, 1993.

* * * * *

(e) The borrower need not repay principal, and interest does not accrue, for periods of up to one year at a time (except that a deferment under paragraph (2)(ii) of this section may be granted for longer than one year at a time) that, collectively, do not exceed 3 years, during which the borrower is suffering an economic hardship, if the borrower provides documentation satisfactory to the institution showing that the borrower—

* * * * *

(2) Is receiving payment—

(i) Under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance; or

(ii) From the Peace Corps while serving as a Peace Corps volunteer;

* * * * *

3. Section 674.38 is amended by revising paragraphs (a)(1) and (d) to read as follows:

§ 674.38 Deferment procedures.

(a)(1) As a condition for receiving a deferment, a borrower shall request the deferment, and provide the institution with all information and documents required by the institution by the date that the institution establishes.

* * * * *

(d) Except for a deferment under paragraph (2)(ii) of section 674.34, the institution shall determine the

continued eligibility of a borrower for a deferment at least annually.

§ 674.39 [Amended]

4. Section 674.39, paragraph (a)(1), is amended by removing the words “in writing”.

PART 682—FEDERAL FAMILY EDUCATION LOAN PROGRAM

5. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

6. Section 682.210 is amended by revising paragraph (s)(6) introductory text and (s)(6)(ii) to read as follows:

§ 682.210 Deferment.

* * * * *

(s) * * *

(6) *Economic hardship deferment.* An eligible borrower is entitled to an economic hardship deferment for periods of up to one year at a time (except that a deferment under paragraph (s)(6)(ii)(B) of this section may be granted for longer than one year at a time) that, collectively, do not exceed 3 years, if the borrower provides documentation satisfactory to the lender showing that the borrower—

* * * * *

(ii) Is receiving payment—

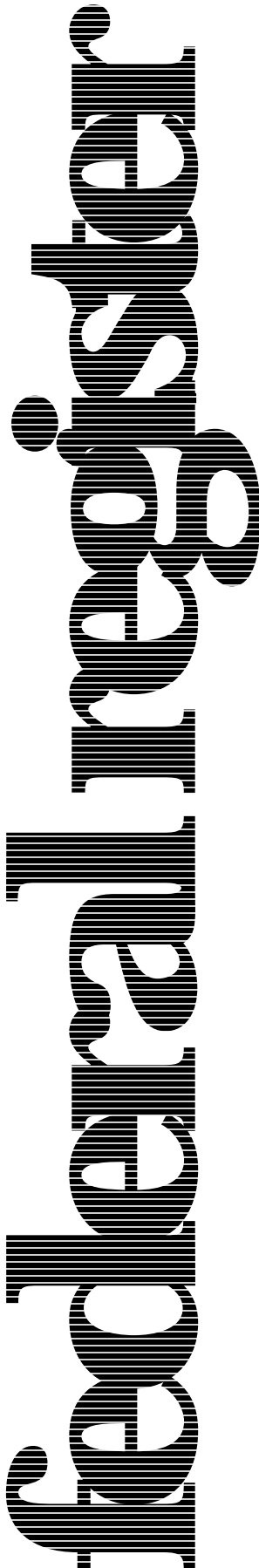
(A) Under a federal or state public assistance program, such as Aid to Families with Dependent Children, Supplemental Security Income, Food Stamps, or state general public assistance; or

(B) From the Peace Corps while serving as a Peace Corps volunteer;

* * * * *

[FR Doc. 98–24866 Filed 9–16–98; 8:45 am]

BILLING CODE 4000–01–P



Thursday
September 17, 1998

Part V

**Department of
Transportation**

**Research and Special Programs
Administration
Federal Highway Administration**

**Application by Association of Waste
Hazardous Materials Transporters for a
Preemption Determination as to
Cleveland, Ohio Requirements for
Transportation of Hazardous Materials;
Notice**

DEPARTMENT OF TRANSPORTATION**Research and Special Program Administration****Federal Highway Administration**

[Docket No. RSPA-98-3579 (PDA-20 (RF))]

Application by Association of Waste Hazardous Materials Transporters for a Preemption Determination as to Cleveland, Ohio Requirements for Transportation of Hazardous Materials**AGENCY:** Research and Special Programs Administration (RSPA) and Federal Highway Administration (FHWA), DOT.**ACTION:** Public notice and invitation to comment.

SUMMARY: Interested parties are invited to submit comments on an application by the Association of Waste Hazardous Materials Transporters (AWHMT) for an administrative determination whether Federal hazardous materials transportation law preempts requirements of the City of Cleveland, Ohio, concerning the transportation of explosives and other hazardous materials within the City.

DATES: Comments received on or before October 19, 1998, and rebuttal comments received on or before November 16, 1998, will be considered before an administrative ruling is issued jointly by RSPA's Associate Administrator for Hazardous Materials Safety and FHWA's Administrator. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Dockets Office, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590-0001. The application and all comments are also available on-line through the home page of DOT's Docket Management System, at "http://dms.dot.gov."

Comments should be submitted to the Dockets Office at the above address. Three copies of each written comment should be submitted. Comments may also be submitted by E-mail to "rspa.counsel@rspa.dot.gov." Each comment should refer to the Docket Number set forth above. A copy of each comment must also be sent to (1) Mr. Michael Carney, Chairman, Association of Waste Hazardous Materials Transporters, 2200 Mill Road, Alexandria, VA 22314, and (2) Mr. Sylvester Summers, Director of Law, City of Cleveland, City Hall—Room 106, 601 Lakeside Avenue, Cleveland, OH

44114. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I certify that copies of this comment have been sent to Messrs. Carney and Summers at the addresses specified in the **Federal Register**.")

A list and subject matter index of hazardous materials preemption cases, including all inconsistency rulings and preemption determinations issued, are available through the home page of RSPA's Office of the Chief Counsel, at "http://rspa-atty.dot.gov." A paper copy of this list and index will be provided at no cost upon request to Mr. Hilder, at the address and telephone number set forth in "For Further Information Contact" below.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration (Tel. No. 202-366-4400), or Raymond Cuprill, Office of the Chief Counsel, Federal Highway Administration (Tel. No. 202-366-0834), U.S. Department of Transportation, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:**I. Application for a Preemption Determination**

AWHMT has applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts requirements of the City of Cleveland ("City") applicable to the transportation of explosives and other hazardous materials in and through the City. The text of AWHMT's application and a list of the attachments are set forth in Appendix A. A paper copy of the attachments to AWHMT's application will be provided at no cost upon request to Mr. Hilder, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** above.

The requirements challenged by AWHMT are contained in, or relate to, provisions in Chapters 387 and 394 of the City's Consolidated Ordinances ("City Code") for permits to transport within the City any explosive or a quantity of hazardous materials for which placarding is required under the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180. The following discussion is based upon the copies of Chapters 387 and 394 of the City Code attached to AWHMT's application.

Permits for the transportation of explosives and other hazardous materials within the City are issued by the City's Fire Department. Secs.

387.07(a), 394.08. It is uncertain whether these permit requirements in Chapters 387 and 394 apply only to motor carriers or to all modes of transportation. The provisions that, without a permit, "no person shall transport explosives" (§ 387.07(a)) and "[n]o transportation of hazardous materials * * * is permitted" (§ 394.08) seem to apply to all modes; however, AWHMT states that only motor carriers are required to obtain permits and pay fees.

Explosives. Chapter 387 of the City Code governs the storage, transportation, possession, sale and use of explosives within the City. Sec. 387.02(g). However, this chapter does not

Apply to explosives while in course of transportation via railroad, water or highway when the explosives are moving under the jurisdiction of and in conformity with regulations adopted by the Interstate Commerce Commission or the United States Coast Guard.¹

Based on this exception in Section 387.03, the City does not require an explosives transporter that remains on interstate highways, while in the City, to obtain an explosives permit, according to affidavits submitted with AWHMT's application.

A permit to transport explosives may be issued for up to one year, and the "Application for the Transportation of Explosives" form states that the permit will not be effective beyond "the expiration date of the [required] insurance." Section 387.09 specifies minimum amounts of liability and property damage insurance and requires submission of a copy of the insurance policy with the permit application. The blank copy of this application form provided with AWHMT's application indicates that the permit fee is \$50 and that the applicant must provide its name and address and the following additional information to obtain a permit to transport explosives:

- Types and quantities of explosives (the form states that a police escort is required if more than 250 lbs. are transported);
- Name and permit number of each consignee (§ 387.07(c) provides that a permit "shall be issued for transportation of explosives designated for delivery or consigned to a person holding a permit for the storage or use of such explosives within the corporate limits of the City");
- Route to be taken within the City (§ 387.07(d) and (b), respectively, provide

¹ It appears that the City originally adopted its explosive permit requirement in 1958, in Ordinance No. 2074-58. At that time, the Federal regulations governing the transportation of hazardous materials were issued and administered by the Interstate Commerce Commission (ICC) (with respect to rail and highway transportation) and by the Coast Guard (with respect to water transportation).

that the Director of Public Safety shall designate "the route to be taken," and that a permit will not be issued "for the transportation of explosives through the City * * * where an alternate route lying wholly without [the City's] corporate limits may be available and will not place an unreasonable burden on such transportation");

- Notification to the Fire Department "24 hours in advance of all deliveries"; and
- Information regarding the vehicle, including type, capacity, license number, PUCO [Public Utilities Commission of Ohio] number, condition, fire extinguishers and marking (§ 387.08(a)(4) requires the vehicle to be "plainly marked 'DANGER, EXPLOSIVES' in letters not less than six inches in height on both sides and on the rear," and § 387.08(a)(6) requires the vehicle to "be equipped with an least two fire extinguishers of a type or design" inspected and approved by the Fire Chief)

Section 387.08(a) also requires a vehicle used for transporting explosives to be inspected by the Fire Department "before a permit for such transportation may be issued," but statements in affidavits submitted with AWHMT's application indicate that the City is not requiring or performing these inspections.

According to § 387.04(b), the explosives permit "shall at all times be subject to inspections by any officer of the Fire or Police Departments," implying (but not specifically stating) that the permit must be carried on the vehicle transporting explosives.

AWHMT specifically challenges requirements in Chapter 387 for a permit, permit fees, proof of insurance, routing and prenotification of shipments, vehicle inspections, the number of fire extinguishers, and the City's uncodified requirements for a police escort to accompany shipments of more than 250 lbs of explosives.

Hazardous materials. Chapter 394 appears to have been adopted in 1992 and applies to "all hazardous materials * * * which are transported in and through the City of Cleveland." Section 394.02. Those parts of the HMR in 49 CFR Parts 171, 172, 173 and 177 "as they exist at the time of passage of this chapter and as amended hereafter" were adopted and incorporated into chapter 394, by § 394.03(a), but that section continues as follows:

(b) When any provision of this chapter is found to be in conflict with the [HMR] regulations adopted in (a) above, the provision which establishes the stricter standard for the promotion and protection of the safety and welfare of the public shall prevail.

The City has also adopted the requirements of the Federal Motor Carrier Safety Regulations contained in

49 CFR Part 397 "as referred to and modified herein." Sec. 394.04.

The City's permit requirement applies to "hazardous materials required to be placarded" by the HMR, but a permit is not required "if transport in the City of Cleveland is limited to interstate highways," or for "the transportation of explosives pursuant to a valid permit issued in accordance with Chapter 387" of the City Code. Secs. 394.05, 394.08. There are two forms of hazardous materials permits, a temporary permit valid for 60 days and an annual permit, and the permit must be obtained "no later than immediately prior to the first hazardous materials delivery or pickup in the City in any calendar year." Sec. 394.08(a).

According to § 384.08(b), a temporary permit is "automatically approved and valid upon receipt by the City of the required information," which may be provided "by letter, telephone, or in person, or by any other communication." To obtain a temporary permit, the applicant must pay a fee of \$25 (§ 394.16) and provide, in addition to its name, address and principal place of business:

- Its ICC, PUCO, or Federal motor carrier census number;
- Hazard class and approximate amounts of hazardous materials to be transported within the City; and
- The name and address of the delivery or pickup point.

Within ten business days of issuance of a temporary permit, a copy must be carried in the vehicle and available for inspection (before that time a transporter need not have a copy of the temporary permit before operating within the City). A temporary permit is not renewable, and "only one such temporary permit shall be issued in any one calendar year." Sec. 394.08(b).

A written application is required for an annual permit, accompanied by "proof of insurance or self insurance," and fees of \$50 per hazard class to be transported. Secs. 394.08(c), 396.16. The Fire Chief must act on an application for an annual permit within 30 days of submission, and the information to be provided on the application form includes the motor carrier's name, address, and business address and the following:

- Its ICC, PUCO, or Federal motor carrier census number;
- Types and quantities of hazardous materials, by hazard class, chemical name, identification number, and number and type of containers;
- Two emergency contacts (with telephone numbers) and whether the transporter has a contract with a hazardous materials

- clean-up contractor (with name, address, and telephone number of a contact person);
- Number of vehicles to be covered by the permit (§ 394.08(c) states that "[s]eparate permits shall not be required for each vehicle owned and operated by a single transporter, but each vehicle shall carry a legible copy of the permit listing each permit required for each class of material carried * * * within ten (10) business days after such permit is sent by the City to the transporter");
- Name and address of the point(s) of origin and destination; and
- The proposed route through the City for each delivery or pickup.

Section 394.08(f) provides that the permit "shall set forth conditions such as routes and other special procedures as determined to be necessary by the Fire Chief." Hazardous materials may not be transported "in the Downtown Area" of the City between 7 a.m. and 6 p.m. except Saturdays and Sundays (§ 394.06(b)), but the Fire Chief may grant an exception on a showing that "delivery or pickup of the hazardous material * * * can be practicably made only during [the prohibited] time period" and transportation of this material is in "the public interest." Sec. 394.08(f). Hazardous materials also may not be transported on City streets (other than interstate highways)

Where there is neither a point of origin nor destination (delivery point) within the City, except where the point of origin or destination (delivery point) is within one mile of the Cleveland City limits, and except where the use of City streets provides the safest and most direct route and the shortest distance of travel from an interstate highway to the point of origin or destination, as determined by the Fire Chief or his designee.

Sec. 394.06(a); *see also* Sec. 394.06(d).

AWHMT specifically challenges requirements in Chapter 394 for a permit, permit fees, proof of insurance, and routing and time restrictions.

II. Federal Preemption

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to AWHMT's application. Subsection (a) provides that—in the absence of a waiver of preemption by DOT under § 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if:

- (1) Complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or
- (2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the "dual compliance" and "obstacle" criteria which RSPA had applied in issuing inconsistency rulings prior to 1990, under the original preemption provision in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93-633 § 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines v. Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132 (1963); *Ray v. Atlantic Richfield, Inc.*, 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects, that is not "substantively the same as" a provision of Federal hazardous material transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

(A) The designation, description, and classification of hazardous material.

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

To be "substantively the same," the non-Federal requirement must "conform[] in every significant respect to the Federal requirement. Editorial and other similar de minimis changes are permitted." 49 CFR 107.202(d).

Subsection (c)(1) of 49 U.S.C. 5125 provides that, beginning two years after FHWA prescribes regulations on standards to be applied by States and Indian tribes in establishing requirements on highway routing of hazardous materials, under 49 U.S.C. 5112(b),

A State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b).²

Subsection (g)(1) of 49 U.S.C. 5125 provides that a State, political subdivision, or Indian tribe may

Impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose relating to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

These preemption provisions in 49 U.S.C. 5125 carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee "endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

(3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L. 101-615 § 2, 104 Stat. 3244. A Federal Court of Appeals has found that uniformity was the "linchpin" in the design of the HMTA, including the 1990 amendments which expanded the original preemption provisions. *Colorado Pub. Util. Comm'n v. Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, the HMTA was revised, codified and enacted "without substantive change," at 49 U.S.C. Chapter 51, Pub. L. 103-272, 108 Stat. 745.)

and October 12, 1994 (59 FR 51824, 51830, non-radioactive materials), and are contained in 49 CFR Part 397, subparts C and D. Highway routing requirements applicable to non-radioactive hazardous materials that were established before the effective date of FHWA's regulations (November 14, 1994) may be subject to Federal preemption under the "dual compliance" and "obstacle" criteria codified in 49 U.S.C. 5125(a)(1) and (a)(2). See 59 FR 51824, 51826, 49 CFR 397.69(c).

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. The Secretary of Transportation has delegated authority to make determinations of preemption that concern highway routing to FHWA and those concerning all other hazardous materials transportation issues to RSPA. 49 CFR 1.48(u)(2), 1.53(b). Because AWHMT's application concerns both highway routing issues and non-highway routing issues, FHWA's Administrator will address highway routing issues, and RSPA's Associate Administrator for Hazardous Materials Safety will address non-highway routing issues. 49 CFR 107.209(a), 397.211(a).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. Following the receipt and consideration of written comments, FHWA and RSPA will publish their determination in the **Federal Register**. See 49 C.F.R. 107.209(d), 397.211(d). A short period of time is allowed for filing of petitions for reconsideration. 49 C.F.R. 107.211, 397.223. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n v. Harmon*, above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), FHWA and RSPA are guided by the principles and policy set forth in Executive Order No. 12612, entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which FHWA and RSPA have implemented through their regulations.

² FHWA's standards and procedures for State and Indian tribe requirements for highway routing of hazardous materials were issued on September 24, 1992 (57 FR 44129-44131, radioactive materials),

III. Public Comments

All comments should be limited to the issue whether 49 U.S.C. 5125 preempts the City's requirements challenged by AWHMT. Comments should:

(A) Set forth in detail the manner in which the City's explosives and hazardous materials permit and related requirements are applied and enforced, including but not limited to:

(1) The modes of transportation that are subject to requirements in Chapters 387 and 394 of the City Code, and the modes of transportation to which AWHMT's application applies;

(2) The City's requirements that applicants for an explosives or hazardous materials permit provide vehicle-specific information, and the applicability of the City's permit and related requirements to specific vehicles (as opposed to the transporter);

(3) The City's interpretation and application of the exception in § 387.03 and the conditions (if any) under which transporters of explosives that comply with the HMR are subject to requirements in Chapter 387;

(4) Specific examples of the effect of the City's requirements on the transportation of explosives and hazardous materials within the City, such as changes in route or other delays experienced by a loaded vehicle in order to comply with the City's requirements;

(5) The City's requirement to provide information on the Permit Application for the Transportation of Hazardous Materials with regard to Class 1 materials and the conditions (if any) under which a transporter is required to obtain permits (and pay permit fees) under both Chapters 387 and 394 of the City Code;

(6) The City's requirement to provide information on the Permit Application for the Transportation of Hazardous Materials with regard to Class 9 materials and the conditions (if any) under which a transporter of Class 9 materials excepted from the HMR's placarding requirements by 49 CFR 504(f)(9) is required to obtain a hazardous materials permit;

(7) The total amount of fees collected by the City in calendar year 1997 for explosives and hazardous materials permits and all purchases for which those fees were used (including an identification of the specific accounts into which those fees were deposited);

(B) Explain the extent to which the City consulted or coordinated with surrounding jurisdictions with respect to its prohibitions on the use of City streets (other than interstate highways) for the transportation of explosives or

hazardous materials through the City; and

(C) Specifically address the preemption criteria set forth in Part II, above.

Persons intending to comment should review the standards and procedures governing consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211, and 397.201–397.211.

Issued in Washington, DC on September 9, 1998.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety Research and Special Programs Administration.

Appendix A

Before the United States Department of Transportation Office of Hazardous Materials Safety

Application of the Association of Waste Hazardous Materials Transporters To Initiate a Proceeding To Determine Whether Various Requirements Imposed by the City of Cleveland, Ohio on Persons Involved in Transporting Certain Hazardous Materials to or From Points in the City Are Preempted by The Hazardous Materials Transportation Act

March 2, 1998.

Application of the Association of Waste Hazardous Materials Transporters to initiate a proceeding to determine whether various requirements imposed by the City of Cleveland, Ohio on persons involved in the transportation of certain hazardous materials to or from points in the City are preempted by the Hazardous Materials Transportation Act.

Interest of the Petitioner

The Association of Waste Hazardous Materials Transporters (AWHMT) represents companies that transport, by truck and rail, waste hazardous materials, including industrial, radioactive and hazardous materials, throughout the United States, including points to and from the City of Cleveland, OH (City). Despite full compliance with the hazardous materials regulations (HMRs), members of the AWHMT are precluded from transporting certain hazardous materials to or from points in the City unless certain requirements of the City Hazardous Materials Ordinance (HazMat Ordinance) and/or Explosives

Ordinance (Explosives Ordinance)¹ are met. The AWHMT asserts that the City requirements are in contravention to the Hazardous Materials Transportation Act (HMTA).

Background

When the City began enforcing its HazMat Ordinance, the hazardous materials transportation industry submitted written comments to the City.² The substance of the comments pointed out how the proposed requirements were inconsistent with federal requirements and urged the City to conform the proposed requirements to federal standards. The AWHMT has only recently been advised of the City's Explosives Ordinance by a member company compelled to comply with its requirements.

The City's hazmat ordinance imposes routing bans and restrictions, permits, insurance filings, and fees on motor carriers transporters of "hazardous materials required to be placarded"³ pursuant to the federal hazardous materials regulations (HMRs) when the vehicles operated by such transporters are used on "City streets (other than interstate highways)."⁴ Where the HMRs and the City requirements conflict, the Ordinance provides that "the stricter standard for the promotion and protection of the safety and welfare of the public shall prevail."⁵ Any violation of these requirements is "a misdemeanor of the first degree. Each violation [is counted] separately [and] each day of the violation constitutes a separate offense."⁶

The City's Explosives ordinance requires that "no person shall * * * transport * * * any Class A, Class B, or Class C explosives"⁷ without first obtaining a permit, remitting a fee, and having the vehicles used in the transportation of such explosives "inspected and approved."⁸ In addition, the Explosives Ordinance also imposes routing and financial responsibility requirements.⁹ Violation of these requirements can lead to the seizure and confiscation of the cargo, as

¹ Ordinance 866–92, enacted on April 27, 1992; Ordinance 84–70, enacted March 1, 1971.

² Letter to Michael R. White, Mayor, City of Cleveland, from Cynthia Hilton, Chemical Waste Transportation Institute, February 4, 1993; letter to William Grubber, Director of Law, City of Cleveland, from Lynda S. Mounts, American Trucking Associations, March 11, 1993.

³ Codified Ordinances of Cleveland, OH (hereinafter "Code"), § 394.05.

⁴ Code § 394.06.

⁵ Code § 394.03(b).

⁶ Code § 394.99.

⁷ Code § 387.03.

⁸ Code § 387.08.

⁹ Code § 387.07(d) & .09.

well as to fines, not to exceed \$200, and/or penalties including imprisonment not to exceed six months.¹⁰ The Explosives ordinance states that it does not "apply to explosives while in course of transportation via railroad * * * or highway when the explosives are moving under the jurisdiction of and in conformity with regulations adopted by the Interstate Commerce Commission * * *"¹¹ The fact that the ICC was abolished in 1995 has no bearing on this exclusion inasmuch as the City has interpreted the ICC exception to apply to vehicles that do not leave the "interstate."¹² Even if the City subsequently give another interpretation of this exception, it must be remembered that: (1) Not all motor carriers were subject to ICC jurisdiction, and (2) even if a motor carrier was excepted from the Explosives Ordinance, nothing in the HazMat Ordinance suggests that such an exception would carry over to the HazMat Ordinance.

City Requirements for Which a Determination Is Sought

This application seeks preemption of the following City requirements.¹³

- Code § 394.16 & 387.04(b) concerning fees.
- Code § 394.06, .08(f) & § 387.07, concerning shipments routing and prenotification.
- Code § 394.08 & § 387.09 concerning proof of insurance.
- Code § 387.08(a) concerning vehicle inspections.
- Code § 387.08(a)(6) concerning fire extinguishers.
- Explosives Permit Application concerning requirement for police escort.
- Code § 394.08 & 387.02(g), .04, and .07, concerning annual permits.

Federal Law Provides for the Preemption of Non-Federal Requirements When Those Non-Federal Requirements Fail Certain Federal Preemption Tests

The Hazardous Materials Transportation Act (HMTA) was enacted in 1975 to give the U.S. Department of Transportation (DOT) greater authority "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce."¹⁴ By vesting primary

authority over the transportation of hazardous materials in DOT, Congress intended to "make possible for the first time a comprehensive approach to minimization of the risks associated with the movement of valuable but dangerous materials."¹⁵ As originally enacted, the HMTA included a preemption provision "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation."¹⁶ The Act preempted "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in [the Act], or in a regulation issued under [the Act]."¹⁷ This preemption provision was implemented through an administrative process where DOT would issue "inconsistency rulings" as to, [w]hether compliance with both the State or political subdivision requirement and the Act or the regulations issued under the Act is possible; and [t]he extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.¹⁸

These criteria, commonly referred to as the "dual compliance" and "obstacle" tests, "comport[ed] with the test for conflicts between Federal and State statutes enunciated by the Supreme Court in *Hines v. Davidowitz*, 312 U.S. 52 (1941)."¹⁹

In 1990, Congress codified the dual compliance and obstacle tests as the Act's general preemption provision.²⁰ The 1990 amendments also expanded on DOT's preemption authorities. First, Congress expressly preempted non-federal requirements in five covered subject areas if they are not "substantively the same" as the federal requirements. These covered subject areas are:

- The designation, description, and classification of hazardous materials.
- The packing, repacking, handling, labeling, marking and placarding of hazardous materials.
- The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents.
- The written notification, recording, and reporting of the unintentional

release in transportation of hazardous materials.

- The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.²¹

• "Substantively the same" was defined to mean "conforms in every significant respect to the Federal requirement. Editorial and other similar *de minimis*, changes are permitted."²² Second, non-federal highway routing requirements that fail to satisfy the federal standard under 49 U.S.C. 5112(b) are preempted.²³ Third, non-federal registration and permitting forms and procedures that are not "the same" as federal regulations to be issued are preempted.²⁴ Fourth, non-federal fees related to the transportation of hazardous materials are preempted unless the fees are "fair and used for a purpose related to transporting hazardous materials."²⁵ These preemption authorities are limited only to the extent that non-federal requirements are "otherwise authorized" by federal law. A non-federal requirement is not "otherwise authorized by Federal law" merely because it is not preempted by another federal statute.²⁶

- The HMRs have been promulgated in accordance with the HMTA's direction that the Secretary of Transportation "issue regulations for the safe transportation of hazardous material in intrastate, interstate, and foreign commerce."²⁷ Transportation" is defined as "the movement of property and loading, unloading, or storage incidental to the movement."²⁸

Our review of federal law and the Ordinance lead us to believe that the following specific Ordinance requirements, absent further modification and/or clarification, are subject to preemption pursuant to 49 U.S.C. 5125(a)(2) and (b).

The Fees Imposed by the Ordinance Are Not "Fair" and Subject to Preemption Under the Obstacle Test

Code § 394.16 authorizes the assessment of annual fees in the amount of \$50 per hazard class identified on the HazMat permit application or \$25 per

¹⁰ Code § 387.15 & .99.

¹¹ Code § 387.03.

¹² See attached affidavits.

¹³ Attached to this compliant are affidavits that attest to the issues we have submitted for review.

¹⁴ P.L. 93-633 § 102.

¹⁵ S.Rep. 1192, 93rd Cong., 2d Sess., 1974, page 2.

¹⁶ S.Rep. 1192, 93rd Cong., 2d Sess., 1974, page 37.

¹⁷ P.L. 93-633 § 112(a).

¹⁸ 41 FR 38171 (September 9, 1976).

¹⁹ 41 FR 38168 (September 9, 1976).

²⁰ 49 U.S.C. 5125(a).

²¹ 49 U.S.C. 5125(b).

²² 49 CFR 107.202(d).

²³ 49 U.S.C. 5125(c).

²⁴ 49 U.S.C. 5119(c)(2).

²⁵ 49 U.S.C. 5125(g).

²⁶ *Colo. Pub. Util. Comm'n v. Harmon*, 951 F.2d, 1571, 1581 n. 10, (10th Cir. 1991).

²⁷ 49 U.S.C. 5103(b).

²⁸ 49 U.S.C. 5102(12).

temporary HazMat permit. Because of the restrictions accompanying the temporary permit—60-day limitation; issuance of only one temporary permit per carrier in any given year—we believe the majority of motor carriers will be compelled to obtain the annual permit. Additionally, motor carriers transporting Class 1 materials are required to pay \$50 for the annual explosives permit required by Code § 387.04.²⁹ Consequently, motor carriers that transport materials that fall within all of the federal hazard classes are subject to an aggregate annual permit charge of \$450.³⁰

The City's fee is set at a flat rate and unapportioned to each motor carrier's presence in the City. The U.S. Supreme Court has declared fees which are flat and unapportioned to be unconstitutional under the Commerce Clause because, among other things, such fees fail the "internal consistency" test.³¹ The Court reasoned that a state fee levied on an interstate operation violates the Commerce Clause because, if replicated by other jurisdictions, such fees lead to interstate carriers being subject to multiple times the rate of taxation paid by purely local carriers even though each carrier's vehicles operate an identical number of miles.³² In addition, because they are unapportioned, flat fees cannot be said to be "fairly related" to a fee-payer's level of presence or activities in the fee-assessing jurisdiction.³³ In a number of subsequent cases, courts have relied on these arguments to strike down, enjoin, or escrow flat hazardous materials taxes and fees.³⁴ The City's decision to impose its suspect fee on a per hazard class basis rather than a per vehicle basis does not save it from review under these constitutionally-derived tests. In fact, a per hazard class fee is not unique. Most recently, the State of Wisconsin

imposed fees based on transportation activities that can be linked to placard requirements. The court that considered the Wisconsin hazmat transportation fee found that this fee scheme also violated the Commerce Clause.³⁵ The substantial financial burden of meeting multiple state fee requirements is magnified many times if local entities are permitted to impose fees on carriers in every jurisdiction in which they operate.

We submit that flat fees also run afoul of the HMTA because some motor carriers, otherwise in compliance with the HMRs, will inevitably be unable to shoulder multiple flat-per vehicle fees, and thus be excluded from some sub-set of fee-imposing jurisdictions. If the City's flat fee scheme is allowed to stand, similar fees must be allowed in the Nation's other 30,000 non-federal jurisdictions. The cumulative effect of such outcome would be not only a generally undesirable patchwork of regulations necessary to collect the various fees, but the balkanization of carrier areas of operation and attendant, unnecessary handling of hazardous materials as these materials are transferred from one company to another at jurisdictional borders. The increased transfers would pose a serious risk to safety, since "the more frequently hazardous material is handled during transportation, the greater the risk of mishap."³⁶

In recognition of these outcomes, Congress amended the HMTA, in 1990, to provide that a "political subdivision * * * may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material."³⁷ (Emphasis added.) Augmenting this authority, Congress further provided, in the 1994 amendments to the HMTA, that DOT collect information about the basis on which the fee is levied.³⁸ The then-Chairman of the Senate Subcommittee to authorize the amendment explained that DOT was to use this authority to determine if "hazardous materials fees are excessive * * * and therefore subject to preemption."³⁹ When determining what constitutes "fair," the Chairman clarified that "the usual constitutional commerce clause protections remain applicable and prohibit fees that discriminate or

unduly burden interstate commerce."⁴⁰ In closely analogous circumstances, the Supreme Court considered the meaning of 49 U.S.C. 1513(b), which authorizes States to impose "reasonable" charges on the users of airports. The Court read the statute to apply a "reasonableness standard taken directly from * * * dormant Commerce Clause jurisprudence."⁴¹ In the absence of any evidence the Congress meant to sanction non-federal fees that are discriminatory or malapportioned, a "fair" fee within the meaning of 49 U.S.C. 5125(g)(1) surely is one that, at a minimum, complies with the requirements of the Commerce Clause.

Additionally, it must be remembered that the Ordinance imposes its challenged flat fees only on motor carriers engaged in the transportation of placarded types of quantities of hazardous materials on City roads. However, AWHMT has reviewed the hazardous materials incident reports filed with DOT pursuant to 49 CFR 171.16 and discovered, for the five-year representative period 1992–1996, that 204 hazardous materials incidents were reported.⁴² Forty-seven percent of these incidents resulted from shipments traveling through the City. Twenty of the incidents were in the air mode, seventeen were in the rail mode. Of the 204 incidents only 3 met DOT's definition of "serious."⁴³ All of the serious incidents occurred in the rail mode. While we are not suggesting that the City impose flat, inapportioned fees on other transportation modes, the City clearly has unfairly burdened select motor carriers with fees and requirements that are unsupported by the risk presented to the citizen and/or environment of the City.

For the above listed reasons, we assert that flat fees are inherently "unfair" and that the City's fee scheme should fall to the obstacle test pursuant to 49 U.S.C. 5125(a)(2).

The Shipment Routing and Prenotification Requirements Are Subject to Preemption Under the Obstacle Test

Code § 394.06, .08(f) and § 387.07 impose limits on the transportation of hazardous materials. As a condition of obtaining a Code § 394.08 HazMat

⁴⁰ *Ibid.*

⁴¹ *Northwest Airlines v. City of Kent*, 510 U.S. 355, 374, 127 L.Ed. 2d 183, 114 S.Ct. 855 (1994).

⁴² Hazardous Materials Information System, U.S. Department of Transportation—1992–1996, January 28, 1998.

⁴³ "Serious" incidents are those that result in one or more of the following: death; accident/derailment of vehicle; evacuation of six or more individuals; injury requiring hospitalization; or road closure.

²⁹ Code § 387.04 does not set a fee amount for the Explosives permit, but provides that the permit "shall be * * * in such form and detail as the Chief prescribes." The Application form for the Explosives permit requires a filing fee of \$50.00.

³⁰ Although domestic movements of Class 9 materials do not require placarding, the HazMat permit application requires disclosure about the transport of Class 9 shipments, and the City still insists on a \$50 fee to move these materials on City streets. Should the City reverse itself on the Class 9 fee, motor carriers would still be liable for up to \$400 in annual permit fees.

³¹ *American Trucking Ass'n v. Scheiner*, 483 U.S. 266 (1987).

³² *Ibid.*, 294–86.

³³ *Ibid.*, 290–291 (citing *Commonwealth Edison Co. v. Montana*, 453 U.S. 609, 629 (1981)).

³⁴ *American Trucking Ass'n v. State of Wisconsin*, No. 95–1714, 1996 WL 593806 (Wisc. App. Ct., October 1996); *American Trucking Ass'n v. Secretary of Administration*, (613 N.E. 2d 95 (Mass. 1993); *American Trucking Ass'n v. Secretary of State*, 595 A.2d 1014 (Me. 1991).

³⁵ *American Trucking Ass'n v. State of Wisconsin*, No. 95–1714, 1996 WL 593806 (Wisc. App. Ct., October 1996).

³⁶ *Missouri Pac. R.R. Co. v. Railroad Comm'n of Texas*, 671 F. Supp. 466, 480–81 (W.D. Tex. 1987).

³⁷ 49 U.S.C. 5125(g)(1).

³⁸ 49 U.S.C. 5125(g)(2).

³⁹ *Cong. Record*, August 11, 1994, page 11324.

permit, motor carriers are required to list, in advance, each route for each delivery and pickup, all types and quantities of hazardous materials to be hauled during the ensuing year.⁴⁴ Code § 394.06 prohibits the use of City streets (other than interstate highways) for transportation of placarded hazardous materials other than from a point of origin or to a point of destination. Transportation of placarded materials is also prohibited on all City streets in the "Downtown Area" between 7:00 am and 6:00 pm on weekdays.⁴⁵ The Code § 387.07 Explosives permit, likewise, prohibits the transportation of explosives through the City "where an alternate route lying wholly without such corporate limits may be available and will not place an 'unreasonable' burden on such transportation."⁴⁶ Additionally, routes to be taken in the City for the transportation of explosives "shall be designated by the Director of Public Safety * * *."⁴⁷ The Explosives permit application requires that the Fire Prevention Bureau "be notified 24 hours in advance of all deliveries."⁴⁸

The HazMat and Explosives Ordinances' routing requirements include the requirement to use interstate highways, time-of-day and day-of-week travel restrictions, and the requirement to avoid the City altogether if alternative routing is available. The time-of-day and day-of-week restrictions compel transporters to deliver non-Cleveland bound, non-hazardous material elsewhere first, keeping hazardous materials on the road longer or to wait outside the City until the time restriction is lifted thus increasing the risk to adjoining communities. The outright ban on explosives transportation through the City when in the judgment of the Fire Chief an alternative route exists likewise would have the same otherwise effect on surrounding communities. These restrictions also do not contemplate the disruption to Cleveland-area businesses awaiting delivery of non-hazardous materials if these products are loaded on a vehicle with cargo requiring a placard—a common practice among so-called "less-than-truckload" carriers. There is no evidence in either Ordinance that the City consulted with

adjoining affected jurisdictions that may be adversely impacted by hazardous materials traffic bound to or from the City which is delayed in those jurisdictions as a result of the routing requirements of the Ordinances. Generally, DOT has found inconsistent and preempted such requirements.⁴⁹ More importantly, as a consequence of amendments to the HMTA in 1990, Congress provided a process to establish standards for the routing of hazardous materials. States, not localities, are charged to ensure compliance with the standards in their respective jurisdictions.⁵⁰

The City's 24-hour advance notice of explosives shipments obviously is understood to be a shipment prenotification requirement. Perhaps not as blatant, the City's requirements to file routes as well as the City's requirements to disclose types and quantities of hazardous materials to be moved in the City also qualify as a form of shipment prenotification. These requirements cannot be accomplished, as the City suggests, on an annual basis. Compliance requires a shipment-by-shipment prior notice. Motor carriers, for example, hold themselves out continuously to the shipping public to haul whatever commodity may be tendered to them at any given time. These carriers frequently do not, and cannot know, even one day in advance either their routings or their cargo. Even the City's temporary permit is not a remedy because a carrier may avail itself of a temporary permit only one time in a calendar year.⁵¹ Consequently, the Ordinances force motor carriers, for all but routine scheduled pick-ups and deliveries, to wait on roads outside the City while attempting to obtain approval of each route before entering the City. DOT has determined that prenotification is a field totally occupied by the HMRs and that local requirements for advance notice of hazardous materials transportation that have the potential to delay traffic are inconsistent and preempted.⁵²

Indemnification and Insurance Filing Requirements Violate Federal Law and Are Preempted Under the Obstacle Test

Code § 394.08 provides that proof of insurance or self-insurance must be provided with the motor carrier's application for a HazMat permit. Likewise, an "exact copy" of a carrier's insurance policy must be "deposited with the City before the issuance of the [Explosives] permit."⁵³ In addition, the Explosives Ordinance requires the insurer to give the City ten days notice in writing before the cancellation of any policy.⁵⁴

Not only do the Ordinances not provide for evidence of surety bonds, if this is the method chosen by the motor carrier to satisfy federal responsibility requirements,⁵⁵ but it flies in the face of Congressional enactments that have prohibited since January 1, 1994 state ability to require proof of insurance from instate motor carriers unless the state participates in the SSRS (Single State Registration System) program, and then filings can only be required in the carrier's base state.⁵⁶ Federal rules also provide that, in the event of a cancellation or change of policy holder, a carrier—not the carrier's insurance agent—must "supplement its filings as necessary to ensure that current information is on file."⁵⁷ Finally, "[t]o the extent any State registration requirement imposes obligations in excess of these specific [under Federal law] the requirement is an unreasonable burden on [interstate] transportation."⁵⁸ If Congress so limited the ability of the various states to obtain this information, it stands to reason that Congress likewise intended to bar the over 30,000 local jurisdictions in the County from imposing similar multiple proof-of-insurance requirements.

While comparable insurance requirements are not currently found in the HMRs, it must be remembered that the City's financial responsibility requirements apply only to motor carriers transporting hazardous materials. The HMTA does authorize DOT to issue permits for the transportation of hazardous materials only to motor carriers that, among other things, "comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations."⁵⁹ DOT's "obstacle test"

⁴⁴ See attached HazMat Permit Application.

⁴⁵ Code § 394.08(e) allows the Fire Chief to grant permits to operate in exception to § 304.06 only if, in the judgment of the Fire Chief, (1) need is shown that the delivery can only occur during restricted hours; and (2) that the transportation is in the "public interest."

⁴⁶ Code § 387.07(b). "Unreasonable" is not defined.

⁴⁷ Code § 387.07(d).

⁴⁸ Explosives Application, Note 3.

⁴⁹ Inconsistency Ruling (IR)—1, 43 FR 16954 (April 20, 1978); IR—2, 44 FR 75566 (December 20, 1979); IR—3, 46 FR 18918 (March 26, 1981); IR—10, 49 FR 46645 (November 27, 1984); IR—11, 49 FR 46647 (November 27, 1984); IR—14, 49 FR 46656 (November 27, 1984); IR—16, 49 FR 20872 (May 20, 1985); IR—20, 52 FR 24396 (June 30, 1987); IR—23, 53 FR 5538 (February 24, 1988); and IR—32, 55 FR 36736 (September 6, 1990).

⁵⁰ P.L. 101–615, Section 4(b).

⁵¹ Code § 394.08(b).

⁵² IR—8(A), 52 FR 13000 (April 20, 1987); and IR—6, 48 FR 760 (January 6, 1983). *Colo. Pub. Util. Comm'n v. Harmon*, 951 F.2d 1571 (10th Cir. 1991).

⁵³ Code § 387.09(a).

⁵⁴ Code § 387.09(c).

⁵⁵ 49 CFR 387.

⁵⁶ 49 U.S.C. 14504(b).

⁵⁷ 49 CFR 1023.4(C)(2).

⁵⁸ 49 CFR 1023.4(h).

⁵⁹ 49 U.S.C. 5109(a)(3).

preemption authority provides that non-federal requirements are preempted if "the requirement of the . . . political subdivision * * * as applied or enforced, is an obstacle to accomplishing and carrying out *this chapter* or a regulation prescribed under this chapter." (Emphasis added.) In short, a specific HMR does not have to be the basis from which a determination of obstacle preemption is made.⁶⁰

The DOT has found that non-federal hazardous materials transportation indemnification, bonding, or insurance requirements differing from Federal requirements are inconsistent and preempted.⁶¹ This view has been supported by the courts.⁶²

Ordinance Requirement for Vehicle Inspections is Subject to Review Under the Obstacle Test

Code § 387.08(a) requires that "[v]ehicles used in the transportation of explosives shall be inspected and approved by the Fire Chief or his duly authorized representative before a permit for such transportation may be issued." As a permit condition, the inspection is valid for a year. DOT has preempted vehicle inspection requirements in the past because the inspections could not be accomplished with "unnecessary delay" within the meaning of 49 CFR 177.853(a) and consequently the challenged

requirements failed the obstacle test of the HMTA.⁶³

While we have no current evidence that the City is enforcing its vehicle inspection requirement, as such may not be able to satisfy the obstacle test condition "as applied or enforced," we maintain that the requirement should not be allowed to stand. On its face, the requirement contains the elements that, if enforced, would be impossible to satisfy without "unnecessary delay." Moreover, DOT should consider additional facts that would reasonably cause a carrier to (1) decide not to pursue obtaining an Explosives permit because of the disruption to business operations of the inspection requirement, thus causing the carrier to avoid the City when the possibility exists that the carrier would, for whatever reason, exist an interstate highway and shifting the potential risk of such transportation to other jurisdictions; or (2) leave carriers with permits in a perpetual state of uncertainty and confusion about their compliance status with the Code. These facts include the fact that the requirement exists in the Code, that the Code with the vehicle inspection requirement is distributed to persons requesting information from the City about its requirements to transport explosives in the City, and that the City provides no explanation that enforcement of the requirement has been withheld (if it has).

Ordinance Requirement for Multiple Fire Extinguishers is Subject to Review Under Substantively-the-Same-As and/or the Obstacle Test

Code § 387.08(a)(6) requires that all vehicles operating under a Explosives permit in the City "be equipped with at least two fire extinguishers * * * inspected and approved by the [Fire] Chief, or his duly authorized representative upon the issuance of the permit." The federal motor carrier safety regulations (FMCSRs) provide that vehicles used to transport hazardous materials be equipped with one fire extinguisher.⁶⁴

Under a "substantively-the-same-as test" review, we would argue that the City's requirement for two fire extinguishers in nothing more than a requirement that substantively differs from the HMRs to qualify a "container," in this case a motor vehicle, to transport packages of hazardous materials that are otherwise in compliance with the

HMRs.⁶⁵ RSPA has "established * * * the principle that the HMR provisions concerning hazardous materials transportation * * * accessories; * * * have fully occupied that regulatory field [and that] those subjects are the exclusive province of the Federal Government."⁶⁶

If an "obstacle test" review is used, we argue that the Code does not provide any justification to support its view that the federal standard is inadequate. If it is permissible for the City to require multiple fire extinguishers that are deemed "adequate" only at the discretion of the Fire Chief, then it is permissible for other jurisdictions to do the same. For an interstate carrier of hazardous materials, such diverse requirements cannot be tolerated particularly when they are non-reciprocal—neither recognizing comparable federal standards, nor even other non-federal standards if they exist. We believe this requirement poses an unnecessary and unreasonable burden on motor carriers of hazardous materials that operate in multiple jurisdictions and that the requirement should be preempted pursuant to 49 U.S.C. 5125(a)(2).⁶⁷

⁶⁵ 49 U.S.C. 5125(b)(1)(E).

⁶⁶ IR-22, 52 FR 46574, 46582 (December 8, 1987).

⁶⁷ The AWHMT cites standards of the FMCSRs as examples of federal rules to which the City requirement might be compared. We realize that these requirements are not *de facto* repeated in the HMRs. However, they are certainly given *de jure* meaning pursuant to 49 CFR 177.804. Again, we believe it is appropriate and necessary that RSPA consider the rules of other federal agencies or departments within DOT and the meaning of regulatory silence within the HMRs in determining matters of hazardous materials preemption particularly when the challenged non-federal requirements are applicable only to persons who transport or offer for transport hazardous materials. We believe that any non-federal requirement that pertains only to the transportation of hazardous materials is within RSPA's purview to consider under the preemptive authority of the HMTA. As noted above, non-federal requirements are preempted if under the "obstacle test" if the non-federal requirement is an obstacle to accomplishing and carrying out federal hazmat law. With regard to the FMCSRs, federal law provides, as a condition of obtaining a federal permit to transport hazardous materials by highway, that a motor carrier "comply with applicable United States motor carrier safety laws and regulations * * * ." [49 U.S.C. 5109(a)(3).] In other words, a specific HMR does not have to be the basis from which a determination of preemption is made. This view is consistent with the findings of the HMTA which states, in part, that non-federal requirements "which vary from Federal laws and regulations pertaining to the transportation of hazardous materials * * * creat[e] the potential for reasonable hazards in other jurisdictions and confound[] shippers and carriers which attempt to comply [and] that the movement of hazardous materials * * * shall be conducted in a safe and efficient manner." (Emphasis added.) [Pub. L. 101-615 § (2)(3).]

⁶⁰ Surely Congress meant the Secretary to consider the entire regulatory scheme required of a motor carrier in determining what rules were necessary to ensure the safe transportation of hazardous materials. We could have just as easily cited to the Secretary's silence in terms of a regulatory standard in the HMRs as an affirmative determination that some type of requirement was not necessary to the safe transportation of hazardous material. We believe it is appropriate and necessary that RSPA consider the rules of other federal agencies or departments within DOT and the meaning of regulatory silence within the HMRs in determining matters of hazardous materials preemption particularly when the challenged non-federal requirements are applicable only to persons who transport or offer for transport hazardous materials. Without such a view, any number of non-federal conditions in areas such as planning, emergency response, or vehicle accouterments could be envisioned which would just as effectively frustrate the transportation of hazardous materials in interstate, intrastate, or foreign commerce as non-federal rules concerning shipping papers, packaging standards, or other more traditional forms of hazardous materials regulations. We believe that any non-federal requirement that pertains only to the transportation of hazardous materials is within RSPA's purview to consider under the preemptive authority of the HMTA.

⁶¹ IR-10, 49 FR 46645 (November 27, 1984); IR-25, 54 FR 16308 (April 21, 1989); and IR-31, 55 FR 25571 (June 21, 1990).

⁶² *Colorado Pub. Utilities Comm'n v. Harmon*, 951 F.2d (10th Cir. 1991).

⁶³ Preemption Determination 4(R) 58 FR 48933 (September 20, 1993), affirmed on reconsideration 60 FR 8800 (February 15, 1995).

⁶⁴ 49 CFR 393.95.

Application Requirement for Vehicle Escort is Subject To Review Under the Obstacle Test

While we find no specific authority for the requirement in the City's Explosives Ordinance, the application for the Explosives permit requires a "police escort * * * if more than 250 pounds are transported."⁶⁸ The transportation of hazardous materials is a highly regulated enterprise. DOT has established extensive requirements for such transportation, including requirements for vehicle escort if the vehicle carries certain RAM shipments.⁶⁹ The fact that the HMR requires escort vehicles only for RAM shipments shows RSPA's intent not to require them for transport of other hazardous materials. The courts have held that non-federal requirements for escort vehicles are preempted under the obstacle test because such requirements interfere with Federal uniformity in an unsafe and burdensome manner.⁷⁰

Permit Requirements at Odds With Federal Requirements Have the Potential To Delay Transportation and Are Preempted Under The Obstacle Test

Code § 394.08 and § 387.02(g), .04 and .07 provide authority for the City to issue annual permits for the transportation of hazardous materials and explosives on City streets. Copy(ies) of the Permit(s) must be carried on each subject vehicle. As discussed above, both permits require that consignee(s)/Consignor(s) be listed, that insurance information be filed, that routes be declared for approval, and that the types and quantities of hazardous materials to be transported be disclosed. Additionally, the HazMat permit requires that "emergency contact numbers" be provided and that clean-up contractor identified. The Explosive permit requires, as discussed above, the

additional fire extinguisher, the police escort, and the prenotification of all deliveries.

During the 1990 reauthorization of the HMTA, Congress found that "many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting . . . permitting . . . requirements." To address this problem, Congress specifically authorized the federal government to issue permits to motor carriers transporting hazardous materials, and allowed states to issue such permits if the permits, based on a federal rule, were uniform and reciprocal.⁷¹ Congress could have but did not affirm a role for localities in this regulatory field. Congress surely could not have intended to grant localities—over 30,000 localities nationwide—authority it was unwilling, except under limited circumstances, to grant to the states. The City HazMat and Explosives permits apply to selected hazardous materials, involve extensive information and documentation requirements, and contain discretion as to permit issuance. The courts have found that "[c]umulatively, these factors constitute unauthorized prior restraints on shipments of * * * hazardous materials that are presumptively safe based on their compliance with Federal regulations."⁷² DOT should find these permits preempted under the obstacle test based on the onerousness and the sheer impossibility of fully and efficiently complying with the permits' conditions without causing unnecessary delay in the transportation of hazardous materials.

Conclusion

The City's HazMat and Explosives Ordinances impose requirements on the transportation of certain hazardous materials which we believe are preempted by federal law. The City is enforcing the above suspect requirements. Despite good-faith efforts to deal directly with the City on these matters, the City has not responded to our concerns. We can no longer ignore the determination of the City to enforce its suspect regulatory requirements. Consequently, we request timely consideration of the concerns we have raised.

Certification

Pursuant to 49 CFR 107.205(a), we hereby certify that a copy of this application has been forwarded with an invitation to submit comments to: Sharon Sobol Jordan, Director of Law, City of Cleveland, City Hall—Rm. 106, 601 Lakeside Ave., Cleveland, OH 44114.

Respectfully submitted,

Michael Carney,
Chairman

Enclosures

cc: Ed Bonekemper, Asst. Chief Counsel for Hazardous Materials Safety, RSPA—DCC—10, U.S. Department of Transportation, 400 Seventh St., SW, Washington, DC 20590.

Attachments

(A) City HazMat Ordinance § 394.
(B) City Explosives Ordinance § 398.
(C) HazMat Permit Application.
(D) Explosives Permit Application.
(E) Affidavits of: W. Barry Olsen, Freehold Cartage, Inc., Connie Buschur, Metropolitan Environmental, Inc., Susan Camara, Roadway Express, Inc., Karla Simmons, Tri-State Motor Transit Co.

(F) Sample notice of City's current effort to enforce its permit requirement.

[FR Doc. 98-24913 Filed 9-16-98; 8:45 am]

BILLING CODE 4910-60-M

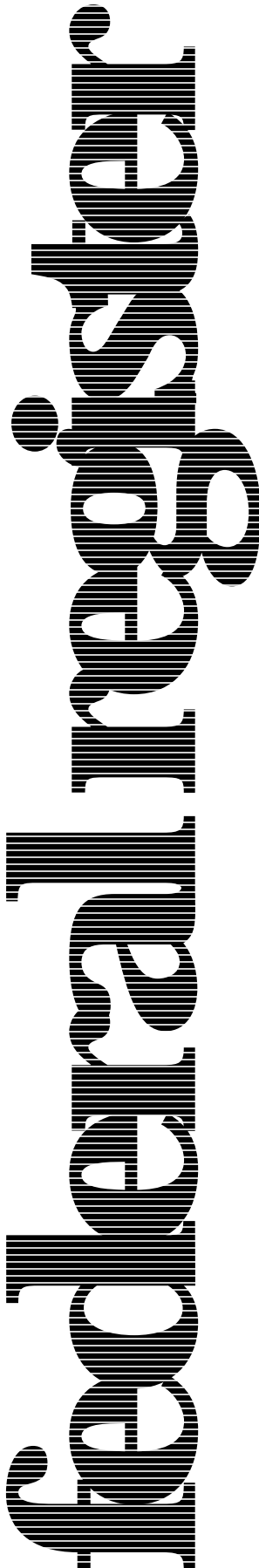
⁶⁸ Explosives Permit Application, Note 3.

⁶⁹ 49 CFR 173.457(b)(2).

⁷⁰ *Chlorine Institute, Inc. v. Calif. Hwy. Patrol*, Civ. S-92-396 (E.D. Cal., September 16, 1992), *aff'd*, 29 F.3d 495 (9th Cir. 1994).

⁷¹ 49 U.S.C. 5109 & 5119.

⁷² *Southern Pac. Transp. Co. v. Public Serv. Comm'n of Nevada*, 909 F.2d 352 (9th Cir. 1990).



Thursday
September 17, 1998

Part V

**Department of
Transportation**

Research and Special Programs
Administration
Federal Highway Administration

Application by Association of Waste
Hazardous Materials Transporters for a
Preemption Determination as to
Cleveland, Ohio Requirements for
Transportation of Hazardous Materials;
Notice

DEPARTMENT OF TRANSPORTATION**Research and Special Program Administration****Federal Highway Administration**

[Docket No. RSPA-98-3579 (PDA-20 (RF))]

Application by Association of Waste Hazardous Materials Transporters for a Preemption Determination as to Cleveland, Ohio Requirements for Transportation of Hazardous Materials**AGENCY:** Research and Special Programs Administration (RSPA) and Federal Highway Administration (FHWA), DOT.**ACTION:** Public notice and invitation to comment.

SUMMARY: Interested parties are invited to submit comments on an application by the Association of Waste Hazardous Materials Transporters (AWHMT) for an administrative determination whether Federal hazardous materials transportation law preempts requirements of the City of Cleveland, Ohio, concerning the transportation of explosives and other hazardous materials within the City.

DATES: Comments received on or before October 19, 1998, and rebuttal comments received on or before November 16, 1998, will be considered before an administrative ruling is issued jointly by RSPA's Associate Administrator for Hazardous Materials Safety and FHWA's Administrator. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and all comments received may be reviewed in the Dockets Office, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590-0001. The application and all comments are also available on-line through the home page of DOT's Docket Management System, at "http://dms.dot.gov."

Comments should be submitted to the Dockets Office at the above address. Three copies of each written comment should be submitted. Comments may also be submitted by E-mail to "rspa.counsel@rspa.dot.gov." Each comment should refer to the Docket Number set forth above. A copy of each comment must also be sent to (1) Mr. Michael Carney, Chairman, Association of Waste Hazardous Materials Transporters, 2200 Mill Road, Alexandria, VA 22314, and (2) Mr. Sylvester Summers, Director of Law, City of Cleveland, City Hall—Room 106, 601 Lakeside Avenue, Cleveland, OH

44114. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I certify that copies of this comment have been sent to Messrs. Carney and Summers at the addresses specified in the **Federal Register**.")

A list and subject matter index of hazardous materials preemption cases, including all inconsistency rulings and preemption determinations issued, are available through the home page of RSPA's Office of the Chief Counsel, at "http://rspa-atty.dot.gov." A paper copy of this list and index will be provided at no cost upon request to Mr. Hilder, at the address and telephone number set forth in "For Further Information Contact" below.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder, Office of the Chief Counsel, Research and Special Programs Administration (Tel. No. 202-366-4400), or Raymond Cuprill, Office of the Chief Counsel, Federal Highway Administration (Tel. No. 202-366-0834), U.S. Department of Transportation, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION:**I. Application for a Preemption Determination**

AWHMT has applied for a determination that Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, preempts requirements of the City of Cleveland ("City") applicable to the transportation of explosives and other hazardous materials in and through the City. The text of AWHMT's application and a list of the attachments are set forth in Appendix A. A paper copy of the attachments to AWHMT's application will be provided at no cost upon request to Mr. Hilder, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** above.

The requirements challenged by AWHMT are contained in, or relate to, provisions in Chapters 387 and 394 of the City's Consolidated Ordinances ("City Code") for permits to transport within the City any explosive or a quantity of hazardous materials for which placarding is required under the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180. The following discussion is based upon the copies of Chapters 387 and 394 of the City Code attached to AWHMT's application.

Permits for the transportation of explosives and other hazardous materials within the City are issued by the City's Fire Department. Secs.

387.07(a), 394.08. It is uncertain whether these permit requirements in Chapters 387 and 394 apply only to motor carriers or to all modes of transportation. The provisions that, without a permit, "no person shall transport explosives" (§ 387.07(a)) and "[n]o transportation of hazardous materials * * * is permitted" (§ 394.08) seem to apply to all modes; however, AWHMT states that only motor carriers are required to obtain permits and pay fees.

Explosives. Chapter 387 of the City Code governs the storage, transportation, possession, sale and use of explosives within the City. Sec. 387.02(g). However, this chapter does not

Apply to explosives while in course of transportation via railroad, water or highway when the explosives are moving under the jurisdiction of and in conformity with regulations adopted by the Interstate Commerce Commission or the United States Coast Guard.¹

Based on this exception in Section 387.03, the City does not require an explosives transporter that remains on interstate highways, while in the City, to obtain an explosives permit, according to affidavits submitted with AWHMT's application.

A permit to transport explosives may be issued for up to one year, and the "Application for the Transportation of Explosives" form states that the permit will not be effective beyond "the expiration date of the [required] insurance." Section 387.09 specifies minimum amounts of liability and property damage insurance and requires submission of a copy of the insurance policy with the permit application. The blank copy of this application form provided with AWHMT's application indicates that the permit fee is \$50 and that the applicant must provide its name and address and the following additional information to obtain a permit to transport explosives:

- Types and quantities of explosives (the form states that a police escort is required if more than 250 lbs. are transported);
- Name and permit number of each consignee (§ 387.07(c) provides that a permit "shall be issued for transportation of explosives designated for delivery or consigned to a person holding a permit for the storage or use of such explosives within the corporate limits of the City");
- Route to be taken within the City (§ 387.07(d) and (b), respectively, provide

¹ It appears that the City originally adopted its explosive permit requirement in 1958, in Ordinance No. 2074-58. At that time, the Federal regulations governing the transportation of hazardous materials were issued and administered by the Interstate Commerce Commission (ICC) (with respect to rail and highway transportation) and by the Coast Guard (with respect to water transportation).

that the Director of Public Safety shall designate "the route to be taken," and that a permit will not be issued "for the transportation of explosives through the City * * * where an alternate route lying wholly without [the City's] corporate limits may be available and will not place an unreasonable burden on such transportation");

- Notification to the Fire Department "24 hours in advance of all deliveries"; and
- Information regarding the vehicle, including type, capacity, license number, PUCO [Public Utilities Commission of Ohio] number, condition, fire extinguishers and marking (§ 387.08(a)(4) requires the vehicle to be "plainly marked 'DANGER, EXPLOSIVES' in letters not less than six inches in height on both sides and on the rear," and § 387.08(a)(6) requires the vehicle to "be equipped with an least two fire extinguishers of a type or design" inspected and approved by the Fire Chief)

Section 387.08(a) also requires a vehicle used for transporting explosives to be inspected by the Fire Department "before a permit for such transportation may be issued," but statements in affidavits submitted with AWHMT's application indicate that the City is not requiring or performing these inspections.

According to § 387.04(b), the explosives permit "shall at all times be subject to inspections by any officer of the Fire or Police Departments," implying (but not specifically stating) that the permit must be carried on the vehicle transporting explosives.

AWHMT specifically challenges requirements in Chapter 387 for a permit, permit fees, proof of insurance, routing and prenotification of shipments, vehicle inspections, the number of fire extinguishers, and the City's uncodified requirements for a police escort to accompany shipments of more than 250 lbs of explosives.

Hazardous materials. Chapter 394 appears to have been adopted in 1992 and applies to "all hazardous materials * * * which are transported in and through the City of Cleveland." Section 394.02. Those parts of the HMR in 49 CFR Parts 171, 172, 173 and 177 "as they exist at the time of passage of this chapter and as amended hereafter" were adopted and incorporated into chapter 394, by § 394.03(a), but that section continues as follows:

(b) When any provision of this chapter is found to be in conflict with the [HMR] regulations adopted in (a) above, the provision which establishes the stricter standard for the promotion and protection of the safety and welfare of the public shall prevail.

The City has also adopted the requirements of the Federal Motor Carrier Safety Regulations contained in

49 CFR Part 397 "as referred to and modified herein." Sec. 394.04.

The City's permit requirement applies to "hazardous materials required to be placarded" by the HMR, but a permit is not required "if transport in the City of Cleveland is limited to interstate highways," or for "the transportation of explosives pursuant to a valid permit issued in accordance with Chapter 387" of the City Code. Secs. 394.05, 394.08. There are two forms of hazardous materials permits, a temporary permit valid for 60 days and an annual permit, and the permit must be obtained "no later than immediately prior to the first hazardous materials delivery or pickup in the City in any calendar year." Sec. 394.08(a).

According to § 384.08(b), a temporary permit is "automatically approved and valid upon receipt by the City of the required information," which may be provided "by letter, telephone, or in person, or by any other communication." To obtain a temporary permit, the applicant must pay a fee of \$25 (§ 394.16) and provide, in addition to its name, address and principal place of business:

- Its ICC, PUCO, or Federal motor carrier census number;
- Hazard class and approximate amounts of hazardous materials to be transported within the City; and
- The name and address of the delivery or pickup point.

Within ten business days of issuance of a temporary permit, a copy must be carried in the vehicle and available for inspection (before that time a transporter need not have a copy of the temporary permit before operating within the City). A temporary permit is not renewable, and "only one such temporary permit shall be issued in any one calendar year." Sec. 394.08(b).

A written application is required for an annual permit, accompanied by "proof of insurance or self insurance," and fees of \$50 per hazard class to be transported. Secs. 394.08(c), 396.16. The Fire Chief must act on an application for an annual permit within 30 days of submission, and the information to be provided on the application form includes the motor carrier's name, address, and business address and the following:

- Its ICC, PUCO, or Federal motor carrier census number;
- Types and quantities of hazardous materials, by hazard class, chemical name, identification number, and number and type of containers;
- Two emergency contacts (with telephone numbers) and whether the transporter has a contract with a hazardous materials

- clean-up contractor (with name, address, and telephone number of a contact person);
- Number of vehicles to be covered by the permit (§ 394.08(c) states that "[s]eparate permits shall not be required for each vehicle owned and operated by a single transporter, but each vehicle shall carry a legible copy of the permit listing each permit required for each class of material carried * * * within ten (10) business days after such permit is sent by the City to the transporter");
- Name and address of the point(s) of origin and destination; and
- The proposed route through the City for each delivery or pickup.

Section 394.08(f) provides that the permit "shall set forth conditions such as routes and other special procedures as determined to be necessary by the Fire Chief." Hazardous materials may not be transported "in the Downtown Area" of the City between 7 a.m. and 6 p.m. except Saturdays and Sundays (§ 394.06(b)), but the Fire Chief may grant an exception on a showing that "delivery or pickup of the hazardous material * * * can be practicably made only during [the prohibited] time period" and transportation of this material is in "the public interest." Sec. 394.08(f). Hazardous materials also may not be transported on City streets (other than interstate highways)

Where there is neither a point of origin nor destination (delivery point) within the City, except where the point of origin or destination (delivery point) is within one mile of the Cleveland City limits, and except where the use of City streets provides the safest and most direct route and the shortest distance of travel from an interstate highway to the point of origin or destination, as determined by the Fire Chief or his designee.

Sec. 394.06(a); *see also* Sec. 394.06(d).

AWHMT specifically challenges requirements in Chapter 394 for a permit, permit fees, proof of insurance, and routing and time restrictions.

II. Federal Preemption

Section 5125 of Title 49 U.S.C. contains several preemption provisions that are relevant to AWHMT's application. Subsection (a) provides that—in the absence of a waiver of preemption by DOT under § 5125(e) or specific authority in another Federal law—a requirement of a State, political subdivision of a State, or Indian tribe is preempted if:

- (1) Complying with a requirement of the State, political subdivision or tribe and a requirement of this chapter or a regulation issued under this chapter is not possible; or
- (2) The requirement of the State, political subdivision, or Indian tribe, as applied or enforced, is an obstacle to the accomplishing and carrying out this chapter or a regulation prescribed under this chapter.

These two paragraphs set forth the "dual compliance" and "obstacle" criteria which RSPA had applied in issuing inconsistency rulings prior to 1990, under the original preemption provision in the Hazardous Materials Transportation Act (HMTA). Pub. L. 93-633 § 112(a), 88 Stat. 2161 (1975). The dual compliance and obstacle criteria are based on U.S. Supreme Court decisions on preemption. *Hines v. Davidowitz*, 312 U.S. 52 (1941); *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132 (1963); *Ray v. Atlantic Richfield, Inc.*, 435 U.S. 151 (1978).

Subsection (b)(1) of 49 U.S.C. 5125 provides that a non-Federal requirement concerning any of the following subjects, that is not "substantively the same as" a provision of Federal hazardous material transportation law or a regulation prescribed under that law, is preempted unless it is authorized by another Federal law or DOT grants a waiver of preemption:

(A) The designation, description, and classification of hazardous material.

(B) The packing, repacking, handling, labeling, marking, and placarding of hazardous material.

(C) The preparation, execution, and use of shipping documents related to hazardous material and requirements related to the number, contents, and placement of those documents.

(D) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material.

(E) The design, manufacturing, fabricating, marking, maintenance, reconditioning, repairing, or testing of a packaging or a container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

To be "substantively the same," the non-Federal requirement must "conform[] in every significant respect to the Federal requirement. Editorial and other similar de minimis changes are permitted." 49 CFR 107.202(d).

Subsection (c)(1) of 49 U.S.C. 5125 provides that, beginning two years after FHWA prescribes regulations on standards to be applied by States and Indian tribes in establishing requirements on highway routing of hazardous materials, under 49 U.S.C. 5112(b),

A State or Indian tribe may establish, maintain, or enforce a highway routing designation over which hazardous material may or may not be transported by motor vehicles, or a limitation or requirement related to highway routing, only if the designation, limitation, or requirement complies with section 5112(b).²

Subsection (g)(1) of 49 U.S.C. 5125 provides that a State, political subdivision, or Indian tribe may

Impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose relating to transporting hazardous material, including enforcement and planning, developing, and maintaining a capability for emergency response.

These preemption provisions in 49 U.S.C. 5125 carry out Congress's view that a single body of uniform Federal regulations promotes safety in the transportation of hazardous materials. In considering the HMTA, the Senate Commerce Committee "endorse[d] the principle of preemption in order to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation." S. Rep. No. 1102, 93rd Cong. 2nd Sess. 37 (1974). When it amended the HMTA in 1990, Congress specifically found that:

(3) Many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) Because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) In order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable.

Pub. L. 101-615 § 2, 104 Stat. 3244. A Federal Court of Appeals has found that uniformity was the "linchpin" in the design of the HMTA, including the 1990 amendments which expanded the original preemption provisions. *Colorado Pub. Util. Comm'n v. Harmon*, 951 F.2d 1571, 1575 (10th Cir. 1991). (In 1994, the HMTA was revised, codified and enacted "without substantive change," at 49 U.S.C. Chapter 51, Pub. L. 103-272, 108 Stat. 745.)

and October 12, 1994 (59 FR 51824, 51830, non-radioactive materials), and are contained in 49 CFR Part 397, subparts C and D. Highway routing requirements applicable to non-radioactive hazardous materials that were established before the effective date of FHWA's regulations (November 14, 1994) may be subject to Federal preemption under the "dual compliance" and "obstacle" criteria codified in 49 U.S.C. 5125(a)(1) and (a)(2). See 59 FR 51824, 51826, 49 CFR 397.69(c).

Under 49 U.S.C. 5125(d)(1), any directly affected person may apply to the Secretary of Transportation for a determination whether a State, political subdivision or Indian tribe requirement is preempted. The Secretary of Transportation has delegated authority to make determinations of preemption that concern highway routing to FHWA and those concerning all other hazardous materials transportation issues to RSPA. 49 CFR 1.48(u)(2), 1.53(b). Because AWHMT's application concerns both highway routing issues and non-highway routing issues, FHWA's Administrator will address highway routing issues, and RSPA's Associate Administrator for Hazardous Materials Safety will address non-highway routing issues. 49 CFR 107.209(a), 397.211(a).

Section 5125(d)(1) requires that notice of an application for a preemption determination must be published in the **Federal Register**. Following the receipt and consideration of written comments, FHWA and RSPA will publish their determination in the **Federal Register**. See 49 C.F.R. 107.209(d), 397.211(d). A short period of time is allowed for filing of petitions for reconsideration. 49 C.F.R. 107.211, 397.223. Any party to the proceeding may seek judicial review in a Federal district court. 49 U.S.C. 5125(f).

Preemption determinations do not address issues of preemption arising under the Commerce Clause of the Constitution or under statutes other than the Federal hazardous material transportation law unless it is necessary to do so in order to determine whether a requirement is authorized by another Federal law. A State, local or Indian tribe requirement is not authorized by another Federal law merely because it is not preempted by another Federal statute. *Colorado Pub. Util. Comm'n v. Harmon*, above, 951 F.2d at 1581 n.10.

In making preemption determinations under 49 U.S.C. 5125(d), FHWA and RSPA are guided by the principles and policy set forth in Executive Order No. 12612, entitled "Federalism" (52 FR 41685, Oct. 30, 1987). Section 4(a) of that Executive Order authorizes preemption of State laws only when a statute contains an express preemption provision, there is other firm and palpable evidence of Congressional intent to preempt, or the exercise of State authority directly conflicts with the exercise of Federal authority. Section 5125 contains express preemption provisions, which FHWA and RSPA have implemented through their regulations.

² FHWA's standards and procedures for State and Indian tribe requirements for highway routing of hazardous materials were issued on September 24, 1992 (57 FR 44129-44131, radioactive materials),

III. Public Comments

All comments should be limited to the issue whether 49 U.S.C. 5125 preempts the City's requirements challenged by AWHMT. Comments should:

(A) Set forth in detail the manner in which the City's explosives and hazardous materials permit and related requirements are applied and enforced, including but not limited to:

(1) The modes of transportation that are subject to requirements in Chapters 387 and 394 of the City Code, and the modes of transportation to which AWHMT's application applies;

(2) The City's requirements that applicants for an explosives or hazardous materials permit provide vehicle-specific information, and the applicability of the City's permit and related requirements to specific vehicles (as opposed to the transporter);

(3) The City's interpretation and application of the exception in § 387.03 and the conditions (if any) under which transporters of explosives that comply with the HMR are subject to requirements in Chapter 387;

(4) Specific examples of the effect of the City's requirements on the transportation of explosives and hazardous materials within the City, such as changes in route or other delays experienced by a loaded vehicle in order to comply with the City's requirements;

(5) The City's requirement to provide information on the Permit Application for the Transportation of Hazardous Materials with regard to Class 1 materials and the conditions (if any) under which a transporter is required to obtain permits (and pay permit fees) under both Chapters 387 and 394 of the City Code;

(6) The City's requirement to provide information on the Permit Application for the Transportation of Hazardous Materials with regard to Class 9 materials and the conditions (if any) under which a transporter of Class 9 materials excepted from the HMR's placarding requirements by 49 CFR 504(f)(9) is required to obtain a hazardous materials permit;

(7) The total amount of fees collected by the City in calendar year 1997 for explosives and hazardous materials permits and all purchases for which those fees were used (including an identification of the specific accounts into which those fees were deposited);

(B) Explain the extent to which the City consulted or coordinated with surrounding jurisdictions with respect to its prohibitions on the use of City streets (other than interstate highways) for the transportation of explosives or

hazardous materials through the City; and

(C) Specifically address the preemption criteria set forth in Part II, above.

Persons intending to comment should review the standards and procedures governing consideration of applications for preemption determinations, set forth at 49 CFR 107.201–107.211, and 397.201–397.211.

Issued in Washington, DC on September 9, 1998.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety Research and Special Programs Administration.

Appendix A

Before the United States Department of Transportation Office of Hazardous Materials Safety

Application of the Association of Waste Hazardous Materials Transporters To Initiate a Proceeding To Determine Whether Various Requirements Imposed by the City of Cleveland, Ohio on Persons Involved in Transporting Certain Hazardous Materials to or From Points in the City Are Preempted by The Hazardous Materials Transportation Act

March 2, 1998.

Application of the Association of Waste Hazardous Materials Transporters to initiate a proceeding to determine whether various requirements imposed by the City of Cleveland, Ohio on persons involved in the transportation of certain hazardous materials to or from points in the City are preempted by the Hazardous Materials Transportation Act.

Interest of the Petitioner

The Association of Waste Hazardous Materials Transporters (AWHMT) represents companies that transport, by truck and rail, waste hazardous materials, including industrial, radioactive and hazardous materials, throughout the United States, including points to and from the City of Cleveland, OH (City). Despite full compliance with the hazardous materials regulations (HMRs), members of the AWHMT are precluded from transporting certain hazardous materials to or from points in the City unless certain requirements of the City Hazardous Materials Ordinance (HazMat Ordinance) and/or Explosives

Ordinance (Explosives Ordinance)¹ are met. The AWHMT asserts that the City requirements are in contravention to the Hazardous Materials Transportation Act (HMTA).

Background

When the City began enforcing its HazMat Ordinance, the hazardous materials transportation industry submitted written comments to the City.² The substance of the comments pointed out how the proposed requirements were inconsistent with federal requirements and urged the City to conform the proposed requirements to federal standards. The AWHMT has only recently been advised of the City's Explosives Ordinance by a member company compelled to comply with its requirements.

The City's hazmat ordinance imposes routing bans and restrictions, permits, insurance filings, and fees on motor carriers transporters of "hazardous materials required to be placarded"³ pursuant to the federal hazardous materials regulations (HMRs) when the vehicles operated by such transporters are used on "City streets (other than interstate highways)."⁴ Where the HMRs and the City requirements conflict, the Ordinance provides that "the stricter standard for the promotion and protection of the safety and welfare of the public shall prevail."⁵ Any violation of these requirements is "a misdemeanor of the first degree. Each violation [is counted] separately [and] each day of the violation constitutes a separate offense."⁶

The City's Explosives ordinance requires that "no person shall * * * transport * * * any Class A, Class B, or Class C explosives"⁷ without first obtaining a permit, remitting a fee, and having the vehicles used in the transportation of such explosives "inspected and approved."⁸ In addition, the Explosives Ordinance also imposes routing and financial responsibility requirements.⁹ Violation of these requirements can lead to the seizure and confiscation of the cargo, as

¹ Ordinance 866–92, enacted on April 27, 1992; Ordinance 84–70, enacted March 1, 1971.

² Letter to Michael R. White, Mayor, City of Cleveland, from Cynthia Hilton, Chemical Waste Transportation Institute, February 4, 1993; letter to William Grubber, Director of Law, City of Cleveland, from Lynda S. Mounts, American Trucking Associations, March 11, 1993.

³ Codified Ordinances of Cleveland, OH (hereinafter "Code"), § 394.05.

⁴ Code § 394.06.

⁵ Code § 394.03(b).

⁶ Code § 394.99.

⁷ Code § 387.03.

⁸ Code § 387.08.

⁹ Code § 387.07(d) & .09.

well as to fines, not to exceed \$200, and/or penalties including imprisonment not to exceed six months.¹⁰ The Explosives ordinance states that it does not "apply to explosives while in course of transportation via railroad * * * or highway when the explosives are moving under the jurisdiction of and in conformity with regulations adopted by the Interstate Commerce Commission * * *"¹¹ The fact that the ICC was abolished in 1995 has no bearing on this exclusion inasmuch as the City has interpreted the ICC exception to apply to vehicles that do not leave the "interstate."¹² Even if the City subsequently give another interpretation of this exception, it must be remembered that: (1) Not all motor carriers were subject to ICC jurisdiction, and (2) even if a motor carrier was excepted from the Explosives Ordinance, nothing in the HazMat Ordinance suggests that such an exception would carry over to the HazMat Ordinance.

City Requirements for Which a Determination Is Sought

This application seeks preemption of the following City requirements.¹³

- Code § 394.16 & 387.04(b) concerning fees.
- Code § 394.06, .08(f) & § 387.07, concerning shipments routing and prenotification.
- Code § 394.08 & § 387.09 concerning proof of insurance.
- Code § 387.08(a) concerning vehicle inspections.
- Code § 387.08(a)(6) concerning fire extinguishers.
- Explosives Permit Application concerning requirement for police escort.
- Code § 394.08 & 387.02(g), .04, and .07, concerning annual permits.

Federal Law Provides for the Preemption of Non-Federal Requirements When Those Non-Federal Requirements Fail Certain Federal Preemption Tests

The Hazardous Materials Transportation Act (HMTA) was enacted in 1975 to give the U.S. Department of Transportation (DOT) greater authority "to protect the Nation adequately against the risks to life and property which are inherent in the transportation of hazardous materials in commerce."¹⁴ By vesting primary

authority over the transportation of hazardous materials in DOT, Congress intended to "make possible for the first time a comprehensive approach to minimization of the risks associated with the movement of valuable but dangerous materials."¹⁵ As originally enacted, the HMTA included a preemption provision "to preclude a multiplicity of State and local regulations and the potential for varying as well as conflicting regulations in the area of hazardous materials transportation."¹⁶ The Act preempted "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in [the Act], or in a regulation issued under [the Act]."¹⁷ This preemption provision was implemented through an administrative process where DOT would issue "inconsistency rulings" as to, [w]hether compliance with both the State or political subdivision requirement and the Act or the regulations issued under the Act is possible; and [t]he extent to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.¹⁸

These criteria, commonly referred to as the "dual compliance" and "obstacle" tests, "comport[ed] with the test for conflicts between Federal and State statutes enunciated by the Supreme Court in *Hines v. Davidowitz*, 312 U.S. 52 (1941)."¹⁹

In 1990, Congress codified the dual compliance and obstacle tests as the Act's general preemption provision.²⁰ The 1990 amendments also expanded on DOT's preemption authorities. First, Congress expressly preempted non-federal requirements in five covered subject areas if they are not "substantively the same" as the federal requirements. These covered subject areas are:

- The designation, description, and classification of hazardous materials.
- The packing, repacking, handling, labeling, marking and placarding of hazardous materials.
- The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents.
- The written notification, recording, and reporting of the unintentional

release in transportation of hazardous materials.

- The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.²¹
- "Substantively the same" was defined to mean "conforms in every significant respect to the Federal requirement. Editorial and other similar *de minimis*, changes are permitted."²² Second, non-federal highway routing requirements that fail to satisfy the federal standard under 49 U.S.C. 5112(b) are preempted.²³ Third, non-federal registration and permitting forms and procedures that are not "the same" as federal regulations to be issued are preempted.²⁴ Fourth, non-federal fees related to the transportation of hazardous materials are preempted unless the fees are "fair and used for a purpose related to transporting hazardous materials."²⁵ These preemption authorities are limited only to the extent that non-federal requirements are "otherwise authorized" by federal law. A non-federal requirement is not "otherwise authorized by Federal law" merely because it is not preempted by another federal statute.²⁶

- The HMRs have been promulgated in accordance with the HMTA's direction that the Secretary of Transportation "issue regulations for the safe transportation of hazardous material in intrastate, interstate, and foreign commerce."²⁷ Transportation" is defined as "the movement of property and loading, unloading, or storage incidental to the movement."²⁸

Our review of federal law and the Ordinance lead us to believe that the following specific Ordinance requirements, absent further modification and/or clarification, are subject to preemption pursuant to 49 U.S.C. 5125(a)(2) and (b).

The Fees Imposed by the Ordinance Are Not "Fair" and Subject to Preemption Under the Obstacle Test

Code § 394.16 authorizes the assessment of annual fees in the amount of \$50 per hazard class identified on the HazMat permit application or \$25 per

¹⁰ Code § 387.15 & .99.

¹¹ Code § 387.03.

¹² See attached affidavits.

¹³ Attached to this compliant are affidavits that attest to the issues we have submitted for review.

¹⁴ P.L. 93-633 § 102.

¹⁵ S.Rep. 1192, 93rd Cong., 2d Sess., 1974, page 2.

¹⁶ S.Rep. 1192, 93rd Cong., 2d Sess., 1974, page 37.

¹⁷ P.L. 93-633 § 112(a).

¹⁸ 41 FR 38171 (September 9, 1976).

¹⁹ 41 FR 38168 (September 9, 1976).

²⁰ 49 U.S.C. 5125(a).

²¹ 49 U.S.C. 5125(b).

²² 49 CFR 107.202(d).

²³ 49 U.S.C. 5125(c).

²⁴ 49 U.S.C. 5119(c)(2).

²⁵ 49 U.S.C. 5125(g).

²⁶ *Colo. Pub. Util. Comm'n v. Harmon*, 951 F.2d, 1571, 1581 n. 10, (10th Cir. 1991).

²⁷ 49 U.S.C. 5103(b).

²⁸ 49 U.S.C. 5102(12).

temporary HazMat permit. Because of the restrictions accompanying the temporary permit—60-day limitation; issuance of only one temporary permit per carrier in any given year—we believe the majority of motor carriers will be compelled to obtain the annual permit. Additionally, motor carriers transporting Class 1 materials are required to pay \$50 for the annual explosives permit required by Code § 387.04.²⁹ Consequently, motor carriers that transport materials that fall within all of the federal hazard classes are subject to an aggregate annual permit charge of \$450.³⁰

The City's fee is set at a flat rate and unapportioned to each motor carrier's presence in the City. The U.S. Supreme Court has declared fees which are flat and unapportioned to be unconstitutional under the Commerce Clause because, among other things, such fees fail the "internal consistency" test.³¹ The Court reasoned that a state fee levied on an interstate operation violates the Commerce Clause because, if replicated by other jurisdictions, such fees lead to interstate carriers being subject to multiple times the rate of taxation paid by purely local carriers even though each carrier's vehicles operate an identical number of miles.³² In addition, because they are unapportioned, flat fees cannot be said to be "fairly related" to a feepayer's level of presence or activities in the fee-assessing jurisdiction.³³ In a number of subsequent cases, courts have relied on these arguments to strike down, enjoin, or escrow flat hazardous materials taxes and fees.³⁴ The City's decision to impose its suspect fee on a per hazard class basis rather than a per vehicle basis does not save it from review under these constitutionally-derived tests. In fact, a per hazard class fee is not unique. Most recently, the State of Wisconsin

imposed fees based on transportation activities that can be linked to placard requirements. The court that considered the Wisconsin hazmat transportation fee found that this fee scheme also violated the Commerce Clause.³⁵ The substantial financial burden of meeting multiple state fee requirements is magnified many times if local entities are permitted to impose fees on carriers in every jurisdiction in which they operate.

We submit that flat fees also run afoul of the HMTA because some motor carriers, otherwise in compliance with the HMRs, will inevitably be unable to shoulder multiple flat-per vehicle fees, and thus be excluded from some sub-set of fee-imposing jurisdictions. If the City's flat fee scheme is allowed to stand, similar fees must be allowed in the Nation's other 30,000 non-federal jurisdictions. The cumulative effect of such outcome would be not only a generally undesirable patchwork of regulations necessary to collect the various fees, but the balkanization of carrier areas of operation and attendant, unnecessary handling of hazardous materials as these materials are transferred from one company to another at jurisdictional borders. The increased transfers would pose a serious risk to safety, since "the more frequently hazardous material is handled during transportation, the greater the risk of mishap."³⁶

In recognition of these outcomes, Congress amended the HMTA, in 1990, to provide that a "political subdivision * * * may impose a fee related to transporting hazardous material only if the fee is fair and used for a purpose related to transporting hazardous material."³⁷ (Emphasis added.) Augmenting this authority, Congress further provided, in the 1994 amendments to the HMTA, that DOT collect information about the basis on which the fee is levied.³⁸ The then-Chairman of the Senate Subcommittee to authorize the amendment explained that DOT was to use this authority to determine if "hazardous materials fees are excessive * * * and therefore subject to preemption."³⁹ When determining what constitutes "fair," the Chairman clarified that "the usual constitutional commerce clause protections remain applicable and prohibit fees that discriminate or

unduly burden interstate commerce."⁴⁰ In closely analogous circumstances, the Supreme Court considered the meaning of 49 U.S.C. 1513(b), which authorizes States to impose "reasonable" charges on the users of airports. The Court read the statute to apply a "reasonableness standard taken directly from * * * dormant Commerce Clause jurisprudence."⁴¹ In the absence of any evidence the Congress meant to sanction non-federal fees that are discriminatory or malapportioned, a "fair" fee within the meaning of 49 U.S.C. 5125(g)(1) surely is one that, at a minimum, complies with the requirements of the Commerce Clause.

Additionally, it must be remembered that the Ordinance imposes its challenged flat fees only on motor carriers engaged in the transportation of placarded types of quantities of hazardous materials on City roads. However, AWHMT has reviewed the hazardous materials incident reports filed with DOT pursuant to 49 CFR 171.16 and discovered, for the five-year representative period 1992–1996, that 204 hazardous materials incidents were reported.⁴² Forty-seven percent of these incidents resulted from shipments traveling through the City. Twenty of the incidents were in the air mode, seventeen were in the rail mode. Of the 204 incidents only 3 met DOT's definition of "serious."⁴³ All of the serious incidents occurred in the rail mode. While we are not suggesting that the City impose flat, inapportioned fees on other transportation modes, the City clearly has unfairly burdened select motor carriers with fees and requirements that are unsupported by the risk presented to the citizen and/or environment of the City.

For the above listed reasons, we assert that flat fees are inherently "unfair" and that the City's fee scheme should fall to the obstacle test pursuant to 49 U.S.C. 5125(a)(2).

The Shipment Routing and Prenotification Requirements Are Subject to Preemption Under the Obstacle Test

Code § 394.06, .08(f) and § 387.07 impose limits on the transportation of hazardous materials. As a condition of obtaining a Code § 394.08 HazMat

⁴⁰ *Ibid.*

⁴¹ *Northwest Airlines v. City of Kent*, 510 U.S. 355, 374, 127 L.Ed. 2d 183, 114 S.Ct. 855 (1994).

⁴² Hazardous Materials Information System, U.S. Department of Transportation—1992–1996, January 28, 1998.

⁴³ "Serious" incidents are those that result in one or more of the following: death; accident/derailment of vehicle; evacuation of six or more individuals; injury requiring hospitalization; or road closure.

²⁹ Code § 387.04 does not set a fee amount for the Explosives permit, but provides that the permit "shall be * * * in such form and detail as the Chief prescribes." The Application form for the Explosives permit requires a filing fee of \$50.00.

³⁰ Although domestic movements of Class 9 materials do not require placarding, the HazMat permit application requires disclosure about the transport of Class 9 shipments, and the City still insists on a \$50 fee to move these materials on City streets. Should the City reverse itself on the Class 9 fee, motor carriers would still be liable for up to \$400 in annual permit fees.

³¹ *American Trucking Ass'n v. Scheiner*, 483 U.S. 266 (1987).

³² *Ibid.*, 294–86.

³³ *Ibid.*, 290–291 (citing *Commonwealth Edison Co. v. Montana*, 453 U.S. 609, 629 (1981)).

³⁴ *American Trucking Ass'n v. State of Wisconsin*, No. 95–1714, 1996 WL 593806 (Wisc. App. Ct., October 1996); *American Trucking Ass'n v. Secretary of Administration*, (613 N.E. 2d 95 (Mass. 1993); *American Trucking Ass'n v. Secretary of State*, 595 A.2d 1014 (Me. 1991).

³⁵ *American Trucking Ass'n v. State of Wisconsin*, No. 95–1714, 1996 WL 593806 (Wisc. App. Ct., October 1996).

³⁶ *Missouri Pac. R.R. Co. v. Railroad Comm'n of Texas*, 671 F. Supp. 466, 480–81 (W.D. Tex. 1987).

³⁷ 49 U.S.C. 5125(g)(1).

³⁸ 49 U.S.C. 5125(g)(2).

³⁹ *Cong. Record*, August 11, 1994, page 11324.

permit, motor carriers are required to list, in advance, each route for each delivery and pickup, all types and quantities of hazardous materials to be hauled during the ensuing year.⁴⁴ Code § 394.06 prohibits the use of City streets (other than interstate highways) for transportation of placarded hazardous materials other than from a point of origin or to a point of destination. Transportation of placarded materials is also prohibited on all City streets in the "Downtown Area" between 7:00 am and 6:00 pm on weekdays.⁴⁵ The Code § 387.07 Explosives permit, likewise, prohibits the transportation of explosives through the City "where an alternate route lying wholly without such corporate limits may be available and will not place an 'unreasonable' burden on such transportation."⁴⁶ Additionally, routes to be taken in the City for the transportation of explosives "shall be designated by the Director of Public Safety * * *."⁴⁷ The Explosives permit application requires that the Fire Prevention Bureau "be notified 24 hours in advance of all deliveries."⁴⁸

The HazMat and Explosives Ordinances' routing requirements include the requirement to use interstate highways, time-of-day and day-of-week travel restrictions, and the requirement to avoid the City altogether if alternative routing is available. The time-of-day and day-of-week restrictions compel transporters to deliver non-Cleveland bound, non-hazardous material elsewhere first, keeping hazardous materials on the road longer or to wait outside the City until the time restriction is lifted thus increasing the risk to adjoining communities. The outright ban on explosives transportation through the City when in the judgment of the Fire Chief an alternative route exists likewise would have the same otherwise effect on surrounding communities. These restrictions also do not contemplate the disruption to Cleveland-area businesses awaiting delivery of non-hazardous materials if these products are loaded on a vehicle with cargo requiring a placard—a common practice among so-called "less-than-truckload" carriers. There is no evidence in either Ordinance that the City consulted with

adjoining affected jurisdictions that may be adversely impacted by hazardous materials traffic bound to or from the City which is delayed in those jurisdictions as a result of the routing requirements of the Ordinances. Generally, DOT has found inconsistent and preempted such requirements.⁴⁹ More importantly, as a consequence of amendments to the HMTA in 1990, Congress provided a process to establish standards for the routing of hazardous materials. States, not localities, are charged to ensure compliance with the standards in their respective jurisdictions.⁵⁰

The City's 24-hour advance notice of explosives shipments obviously is understood to be a shipment prenotification requirement. Perhaps not as blatant, the City's requirements to file routes as well as the City's requirements to disclose types and quantities of hazardous materials to be moved in the City also qualify as a form of shipment prenotification. These requirements cannot be accomplished, as the City suggests, on an annual basis. Compliance requires a shipment-by-shipment prior notice. Motor carriers, for example, hold themselves out continuously to the shipping public to haul whatever commodity may be tendered to them at any given time. These carriers frequently do not, and cannot know, even one day in advance either their routings or their cargo. Even the City's temporary permit is not a remedy because a carrier may avail itself of a temporary permit only one time in a calendar year.⁵¹ Consequently, the Ordinances force motor carriers, for all but routine scheduled pick-ups and deliveries, to wait on roads outside the City while attempting to obtain approval of each route before entering the City. DOT has determined that prenotification is a field totally occupied by the HMRs and that local requirements for advance notice of hazardous materials transportation that have the potential to delay traffic are inconsistent and preempted.⁵²

Indemnification and Insurance Filing Requirements Violate Federal Law and Are Preempted Under the Obstacle Test

Code § 394.08 provides that proof of insurance or self-insurance must be provided with the motor carrier's application for a HazMat permit. Likewise, an "exact copy" of a carrier's insurance policy must be "deposited with the City before the issuance of the [Explosives] permit."⁵³ In addition, the Explosives Ordinance requires the insurer to give the City ten days notice in writing before the cancellation of any policy.⁵⁴

Not only do the Ordinances not provide for evidence of surety bonds, if this is the method chosen by the motor carrier to satisfy federal responsibility requirements,⁵⁵ but it flies in the face of Congressional enactments that have prohibited since January 1, 1994 state ability to require proof of insurance from instate motor carriers unless the state participates in the SSRS (Single State Registration System) program, and then filings can only be required in the carrier's base state.⁵⁶ Federal rules also provide that, in the event of a cancellation or change of policy holder, a carrier—not the carrier's insurance agent—must "supplement its filings as necessary to ensure that current information is on file."⁵⁷ Finally, "[t]o the extent any State registration requirement imposes obligations in excess of these specific [under Federal law] the requirement is an unreasonable burden on [interstate] transportation."⁵⁸ If Congress so limited the ability of the various states to obtain this information, it stands to reason that Congress likewise intended to bar the over 30,000 local jurisdictions in the County from imposing similar multiple proof-of-insurance requirements.

While comparable insurance requirements are not currently found in the HMRs, it must be remembered that the City's financial responsibility requirements apply only to motor carriers transporting hazardous materials. The HMTA does authorize DOT to issue permits for the transportation of hazardous materials only to motor carriers that, among other things, "comply with applicable United States motor carrier safety laws and regulations and applicable minimum financial responsibility laws and regulations."⁵⁹ DOT's "obstacle test"

⁴⁴ See attached HazMat Permit Application.

⁴⁵ Code § 394.08(e) allows the Fire Chief to grant permits to operate in exception to § 304.06 only if, in the judgment of the Fire Chief, (1) need is shown that the delivery can only occur during restricted hours; and (2) that the transportation is in the "public interest."

⁴⁶ Code § 387.07(b). "Unreasonable" is not defined.

⁴⁷ Code § 387.07(d).

⁴⁸ Explosives Application, Note 3.

⁴⁹ Inconsistency Ruling (IR)—1, 43 FR 16954 (April 20, 1978); IR—2, 44 FR 75566 (December 20, 1979); IR—3, 46 FR 18918 (March 26, 1981); IR—10, 49 FR 46645 (November 27, 1984); IR—11, 49 FR 46647 (November 27, 1984); IR—14, 49 FR 46656 (November 27, 1984); IR—16, 49 FR 20872 (May 20, 1985); IR—20, 52 FR 24396 (June 30, 1987); IR—23, 53 FR 5538 (February 24, 1988); and IR—32, 55 FR 36736 (September 6, 1990).

⁵⁰ P.L. 101–615, Section 4(b).

⁵¹ Code § 394.08(b).

⁵² IR—8(A), 52 FR 13000 (April 20, 1987); and IR—6, 48 FR 760 (January 6, 1983). *Colo. Pub. Util. Comm'n v. Harmon*, 951 F.2d 1571 (10th Cir. 1991).

⁵³ Code § 387.09(a).

⁵⁴ Code § 387.09(c).

⁵⁵ 49 CFR 387.

⁵⁶ 49 U.S.C. 14504(b).

⁵⁷ 49 CFR 1023.4(C)(2).

⁵⁸ 49 CFR 1023.4(h).

⁵⁹ 49 U.S.C. 5109(a)(3).

preemption authority provides that non-federal requirements are preempted if "the requirement of the . . . political subdivision * * * as applied or enforced, is an obstacle to accomplishing and carrying out *this chapter* or a regulation prescribed under this chapter." (Emphasis added.) In short, a specific HMR does not have to be the basis from which a determination of obstacle preemption is made.⁶⁰

The DOT has found that non-federal hazardous materials transportation indemnification, bonding, or insurance requirements differing from Federal requirements are inconsistent and preempted.⁶¹ This view has been supported by the courts.⁶²

Ordinance Requirement for Vehicle Inspections is Subject to Review Under the Obstacle Test

Code § 387.08(a) requires that "[v]ehicles used in the transportation of explosives shall be inspected and approved by the Fire Chief or his duly authorized representative before a permit for such transportation may be issued." As a permit condition, the inspection is valid for a year. DOT has preempted vehicle inspection requirements in the past because the inspections could not be accomplished with "unnecessary delay" within the meaning of 49 CFR 177.853(a) and consequently the challenged

requirements failed the obstacle test of the HMTA.⁶³

While we have no current evidence that the City is enforcing its vehicle inspection requirement, as such may not be able to satisfy the obstacle test condition "as applied or enforced," we maintain that the requirement should not be allowed to stand. On its face, the requirement contains the elements that, if enforced, would be impossible to satisfy without "unnecessary delay." Moreover, DOT should consider additional facts that would reasonably cause a carrier to (1) decide not to pursue obtaining an Explosives permit because of the disruption to business operations of the inspection requirement, thus causing the carrier to avoid the City when the possibility exists that the carrier would, for whatever reason, exist an interstate highway and shifting the potential risk of such transportation to other jurisdictions; or (2) leave carriers with permits in a perpetual state of uncertainty and confusion about their compliance status with the Code. These facts include the fact that the requirement exists in the Code, that the Code with the vehicle inspection requirement is distributed to persons requesting information from the City about its requirements to transport explosives in the City, and that the City provides no explanation that enforcement of the requirement has been withheld (if it has).

Ordinance Requirement for Multiple Fire Extinguishers is Subject to Review Under Substantively-the-Same-As and/or the Obstacle Test

Code § 387.08(a)(6) requires that all vehicles operating under a Explosives permit in the City "be equipped with at least two fire extinguishers * * * inspected and approved by the [Fire] Chief, or his duly authorized representative upon the issuance of the permit." The federal motor carrier safety regulations (FMCSRs) provide that vehicles used to transport hazardous materials be equipped with one fire extinguisher.⁶⁴

Under a "substantively-the-same-as test" review, we would argue that the City's requirement for two fire extinguishers in nothing more than a requirement that substantively differs from the HMRs to qualify a "container," in this case a motor vehicle, to transport packages of hazardous materials that are otherwise in compliance with the

HMRs.⁶⁵ RSPA has "established * * * the principle that the HMR provisions concerning hazardous materials transportation * * * accessories; * * * have fully occupied that regulatory field [and that] those subjects are the exclusive province of the Federal Government."⁶⁶

If an "obstacle test" review is used, we argue that the Code does not provide any justification to support its view that the federal standard is inadequate. If it is permissible for the City to require multiple fire extinguishers that are deemed "adequate" only at the discretion of the Fire Chief, then it is permissible for other jurisdictions to do the same. For an interstate carrier of hazardous materials, such diverse requirements cannot be tolerated particularly when they are non-reciprocal—neither recognizing comparable federal standards, nor even other non-federal standards if they exist. We believe this requirement poses an unnecessary and unreasonable burden on motor carriers of hazardous materials that operate in multiple jurisdictions and that the requirement should be preempted pursuant to 49 U.S.C. 5125(a)(2).⁶⁷

⁶⁵ 49 U.S.C. 5125(b)(1)(E).

⁶⁶ IR-22, 52 FR 46574, 46582 (December 8, 1987).

⁶⁷ The AWHMT cites standards of the FMCSRs as examples of federal rules to which the City requirement might be compared. We realize that these requirements are not *de facto* repeated in the HMRs. However, they are certainly given *de jure* meaning pursuant to 49 CFR 177.804. Again, we believe it is appropriate and necessary that RSPA consider the rules of other federal agencies or departments within DOT and the meaning of regulatory silence within the HMRs in determining matters of hazardous materials preemption particularly when the challenged non-federal requirements are applicable only to persons who transport or offer for transport hazardous materials. We believe that any non-federal requirement that pertains only to the transportation of hazardous materials is within RSPA's purview to consider under the preemptive authority of the HMTA. As noted above, non-federal requirements are preempted if under the "obstacle test" if the non-federal requirement is an obstacle to accomplishing and carrying out federal hazmat law. With regard to the FMCSRs, federal law provides, as a condition of obtaining a federal permit to transport hazardous materials by highway, that a motor carrier "comply with applicable United States motor carrier safety laws and regulations * * * ." [49 U.S.C. 5109(a)(3).] In other words, a specific HMR does not have to be the basis from which a determination of preemption is made. This view is consistent with the findings of the HMTA which states, in part, that non-federal requirements "which vary from Federal laws and regulations pertaining to the transportation of hazardous materials * * * creat[e] the potential for reasonable hazards in other jurisdictions and confound[] shippers and carriers which attempt to comply [and] that the movement of hazardous materials * * * shall be conducted in a safe and efficient manner." (Emphasis added.) [Pub. L. 101-615 § (2)(3).]

⁶⁰ Surely Congress meant the Secretary to consider the entire regulatory scheme required of a motor carrier in determining what rules were necessary to ensure the safe transportation of hazardous materials. We could have just as easily cited to the Secretary's silence in terms of a regulatory standard in the HMRs as an affirmative determination that some type of requirement was not necessary to the safe transportation of hazardous material. We believe it is appropriate and necessary that RSPA consider the rules of other federal agencies or departments within DOT and the meaning of regulatory silence within the HMRs in determining matters of hazardous materials preemption particularly when the challenged non-federal requirements are applicable only to persons who transport or offer for transport hazardous materials. Without such a view, any number of non-federal conditions in areas such as planning, emergency response, or vehicle accouterments could be envisioned which would just as effectively frustrate the transportation of hazardous materials in interstate, intrastate, or foreign commerce as non-federal rules concerning shipping papers, packaging standards, or other more traditional forms of hazardous materials regulations. We believe that any non-federal requirement that pertains only to the transportation of hazardous materials is within RSPA's purview to consider under the preemptive authority of the HMTA.

⁶¹ IR-10, 49 FR 46645 (November 27, 1984); IR-25, 54 FR 16308 (April 21, 1989); and IR-31, 55 FR 25571 (June 21, 1990).

⁶² *Colorado Pub. Utilities Comm'n v. Harmon*, 951 F.2d (10th Cir. 1991).

⁶³ Preemption Determination 4(R) 58 FR 48933 (September 20, 1993), affirmed on reconsideration 60 FR 8800 (February 15, 1995).

⁶⁴ 49 CFR 393.95.

Application Requirement for Vehicle Escort is Subject To Review Under the Obstacle Test

While we find no specific authority for the requirement in the City's Explosives Ordinance, the application for the Explosives permit requires a "police escort * * * if more than 250 pounds are transported."⁶⁸ The transportation of hazardous materials is a highly regulated enterprise. DOT has established extensive requirements for such transportation, including requirements for vehicle escort if the vehicle carries certain RAM shipments.⁶⁹ The fact that the HMR requires escort vehicles only for RAM shipments shows RSPA's intent not to require them for transport of other hazardous materials. The courts have held that non-federal requirements for escort vehicles are preempted under the obstacle test because such requirements interfere with Federal uniformity in an unsafe and burdensome manner.⁷⁰

Permit Requirements at Odds With Federal Requirements Have the Potential To Delay Transportation and Are Preempted Under The Obstacle Test

Code § 394.08 and § 387.02(g), .04 and .07 provide authority for the City to issue annual permits for the transportation of hazardous materials and explosives on City streets. Copy(ies) of the Permit(s) must be carried on each subject vehicle. As discussed above, both permits require that consignee(s)/Consignor(s) be listed, that insurance information be filed, that routes be declared for approval, and that the types and quantities of hazardous materials to be transported be disclosed. Additionally, the HazMat permit requires that "emergency contact numbers" be provided and that clean-up contractor identified. The Explosive permit requires, as discussed above, the

additional fire extinguisher, the police escort, and the prenotification of all deliveries.

During the 1990 reauthorization of the HMTA, Congress found that "many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting . . . permitting . . . requirements." To address this problem, Congress specifically authorized the federal government to issue permits to motor carriers transporting hazardous materials, and allowed states to issue such permits if the permits, based on a federal rule, were uniform and reciprocal.⁷¹ Congress could have but did not affirm a role for localities in this regulatory field. Congress surely could not have intended to grant localities—over 30,000 localities nationwide—authority it was unwilling, except under limited circumstances, to grant to the states. The City HazMat and Explosives permits apply to selected hazardous materials, involve extensive information and documentation requirements, and contain discretion as to permit issuance. The courts have found that "[c]umulatively, these factors constitute unauthorized prior restraints on shipments of * * * hazardous materials that are presumptively safe based on their compliance with Federal regulations."⁷² DOT should find these permits preempted under the obstacle test based on the onerousness and the sheer impossibility of fully and efficiently complying with the permits' conditions without causing unnecessary delay in the transportation of hazardous materials.

Conclusion

The City's HazMat and Explosives Ordinances impose requirements on the transportation of certain hazardous materials which we believe are preempted by federal law. The City is enforcing the above suspect requirements. Despite good-faith efforts to deal directly with the City on these matters, the City has not responded to our concerns. We can no longer ignore the determination of the City to enforce its suspect regulatory requirements. Consequently, we request timely consideration of the concerns we have raised.

Certification

Pursuant to 49 CFR 107.205(a), we hereby certify that a copy of this application has been forwarded with an invitation to submit comments to: Sharon Sobol Jordan, Director of Law, City of Cleveland, City Hall—Rm. 106, 601 Lakeside Ave., Cleveland, OH 44114.

Respectfully submitted,

Michael Carney,
Chairman

Enclosures

cc: Ed Bonekemper, Asst. Chief Counsel for Hazardous Materials Safety, RSPA—DCC—10, U.S. Department of Transportation, 400 Seventh St., SW, Washington, DC 20590.

Attachments

(A) City HazMat Ordinance § 394.
(B) City Explosives Ordinance § 398.
(C) HazMat Permit Application.
(D) Explosives Permit Application.
(E) Affidavits of: W. Barry Olsen, Freehold Cartage, Inc., Connie Buschur, Metropolitan Environmental, Inc., Susan Camara, Roadway Express, Inc., Karla Simmons, Tri-State Motor Transit Co.

(F) Sample notice of City's current effort to enforce its permit requirement.

[FR Doc. 98-24913 Filed 9-16-98; 8:45 am]

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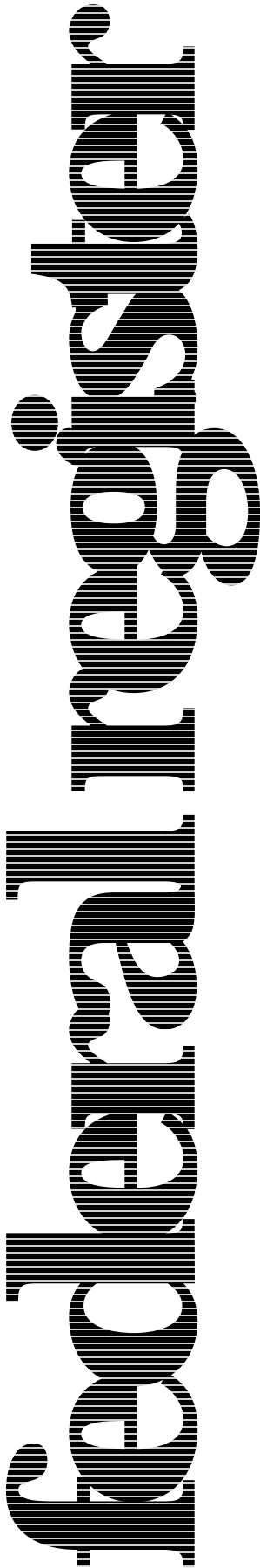
⁶⁸ Explosives Permit Application, Note 3.

⁶⁹ 49 CFR 173.457(b)(2).

⁷⁰ *Chlorine Institute, Inc. v. Calif. Hwy. Patrol*, Civ. S-92-396 (E.D. Cal., September 16, 1992), *aff'd*, 29 F.3d 495 (9th Cir. 1994).

⁷¹ 49 U.S.C. 5109 & 5119.

⁷² *Southern Pac. Transp. Co. v. Public Serv. Comm'n of Nevada*, 909 F.2d 352 (9th Cir. 1990).



Thursday
September 17, 1998

Part VI

The President

Proclamation 7121—National Hispanic
Heritage Month, 1998

Proclamation 7122—National Historically
Black Colleges and Universities Week,
1998

Presidential Documents

Title 3—**Proclamation 7121 of September 15, 1998****The President****National Hispanic Heritage Month, 1998****By the President of the United States of America****A Proclamation**

The presence of Hispanics on this continent predates the founding of our Nation, and, as among the first to settle in the New World, Hispanics and their descendants have had a profound and lasting influence on American history, values, and culture. Since the arrival of the earliest Spanish settlers more than 400 years ago, millions of Hispanic men and women have come to the United States from Mexico, Puerto Rico, Cuba and other Caribbean regions, Central America, South America, and Spain, in search of peace, freedom, and a more prosperous future. They brought with them a deep commitment to family and community, a strong work ethic, and an unwavering belief in the American Dream.

In a Nation that derives so much of its strength from many cultures and races, Hispanic Americans are a thriving force in our society and a vital part of our economy. For example, businesses started and operated by Hispanic women constitute one of the fastest-growing categories of small business in the United States today. This entrepreneurial spirit has contributed to the strongest U.S. economy in a generation.

As we approach the 21st century and face the challenges of a global economy, we recognize that the success of our Nation is closely tied to the success of our citizens of Hispanic heritage, who are a large and increasing segment of our population. My Administration is committed to ensuring that Hispanic Americans have the opportunities they need to realize their dreams of a better life.

The key to those dreams is education. We must continue to reach out to Hispanic youth, encouraging them to stay in school, graduate from high school, and go on to college so that they can compete successfully for good jobs and take advantage of promising career opportunities. As part of these efforts, my Administration is committed to ensuring that our \$600 million Hispanic Education Action Plan is fully funded. This initiative will provide the investments needed to help Hispanic students master basic skills and become proficient in English. It will also assist schools in implementing reforms to reduce dropout rates, enable adults to receive basic skills training and participate in English-as-a-second-language programs, and offer assistance to colleges and universities that serve large numbers of Hispanic students.

This month, as we remember with special gratitude the gifts that Hispanic Americans bring to every aspect of our national life, let us reaffirm our efforts to ensure that all Hispanic American families have the tools and opportunities they need to make the most of their lives. Working together, we can meet the challenges of the 21st century in a way that will celebrate our differences and unite us around our common values.

To honor Hispanic Americans for their many contributions to our Nation and our culture, the Congress, by Public Law 100-402, has authorized and requested the President to issue annually a proclamation designating September 15 through October 15 as "National Hispanic Heritage Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim September 15 through October 15, 1998, as National Hispanic Heritage Month. I call upon all government officials, educators, and the people of the United States to honor this observance with appropriate programs, ceremonies, and activities.

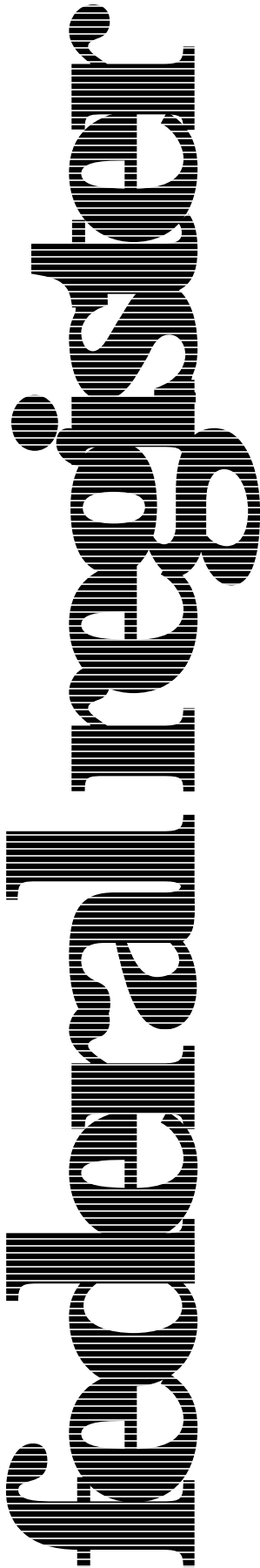
IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

A handwritten signature in black ink, reading "William J. Clinton". The signature is written in a cursive style with a large, stylized "W" and "C".

[FR Doc. 98-25110

Filed 9-16-98; 8:45 am]

Billing code 3195-01-P



Thursday
September 17, 1998

Part VI

The President

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Heritage Month, 1998

Proclamation 7122—National Historically
Black Colleges and Universities Week,
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This month, as we remember with special gratitude the gifts that Hispanic Americans bring to every aspect of our national life, let us reaffirm our efforts to ensure that all Hispanic American families have the tools and opportunities they need to make the most of their lives. Working together, we can meet the challenges of the 21st century in a way that will celebrate our differences and unite us around our common values.

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A handwritten signature in black ink, reading "William J. Clinton". The signature is written in a cursive style with a large, stylized "W" and "C".

[FR Doc. 98-25110

Filed 9-16-98; 8:45 am]

Billing code 3195-01-P

Presidential Documents

Proclamation 7122 of September 15, 1998

National Historically Black Colleges and Universities Week, 1998

By the President of the United States of America

A Proclamation

Education has always been at the heart of opportunity in America. That has never been more true than today, when a revolution in technology is fundamentally changing the way we live and work and learn. In this new era of dynamic challenge and possibility, we recognize that the best opportunities for personal and professional success will go to those who are well educated. Our Nation's Historically Black Colleges and Universities (HBCUs) play a vital role in helping to extend access to a quality education.

Established before and just after the Civil War to educate free black students, these institutions have been African Americans' primary route—and for many the only route—to higher education. Struggling to exist in a segregated society, striving to keep tuition affordable despite limited financial resources, these schools nonetheless upheld their mission of academic excellence and equal opportunity.

Even after the 1954 Supreme Court ruling that ended legal segregation of America's public schools, the need for HBCUs did not disappear. These schools continue to provide young African Americans and other students with a nurturing and affirming environment. Today, America's 105 HBCUs are educating almost 300,000 African Americans, and they count among their graduates the majority of our Nation's African American military officers, physicians, Federal judges, elected officials, and business executives. The distinguished faculty members at HBCUs serve as role models and mentors, challenging students to reach their full potential and to refuse to set limits on their dreams. HBCUs are a source of great pride and a symbol of economic, social, and political growth.

As our Nation grows increasingly diverse in race, culture, and ethnic background, these institutions are a valuable source of knowledge about the history and heritage of African Americans, serving as keepers of significant archives and centers for the study of African Americans' many contributions to the life of our Nation. Most important, these schools continue to champion the cause of equal access to education. With a notable past, a dynamic present, and a promising future, America's HBCUs are helping to prepare our Nation's young people for the challenges and opportunities of the new millennium.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 20 through September 26, 1998, as National Historically Black Colleges and Universities Week. I call upon the people of the United States, including government officials, educators, and administrators, to observe this week with appropriate programs, ceremonies, and activities honoring America's Historically Black Colleges and Universities and their graduates.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William Clinton

[FR Doc. 98-25111

Filed 9-16-98; 8:45 am]

Billing code 3195-01-P

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A Proclamation

Education has always been at the heart of opportunity in America. That has never been more true than today, when a revolution in technology is fundamentally changing the way we live and work and learn. In this new era of dynamic challenge and possibility, we recognize that the best opportunities for personal and professional success will go to those who are well educated. Our Nation's Historically Black Colleges and Universities (HBCUs) play a vital role in helping to extend access to a quality education.

Established before and just after the Civil War to educate free black students, these institutions have been African Americans' primary route—and for many the only route—to higher education. Struggling to exist in a segregated society, striving to keep tuition affordable despite limited financial resources, these schools nonetheless upheld their mission of academic excellence and equal opportunity.

Even after the 1954 Supreme Court ruling that ended legal segregation of America's public schools, the need for HBCUs did not disappear. These schools continue to provide young African Americans and other students with a nurturing and affirming environment. Today, America's 105 HBCUs are educating almost 300,000 African Americans, and they count among their graduates the majority of our Nation's African American military officers, physicians, Federal judges, elected officials, and business executives. The distinguished faculty members at HBCUs serve as role models and mentors, challenging students to reach their full potential and to refuse to set limits on their dreams. HBCUs are a source of great pride and a symbol of economic, social, and political growth.

As our Nation grows increasingly diverse in race, culture, and ethnic background, these institutions are a valuable source of knowledge about the history and heritage of African Americans, serving as keepers of significant archives and centers for the study of African Americans' many contributions to the life of our Nation. Most important, these schools continue to champion the cause of equal access to education. With a notable past, a dynamic present, and a promising future, America's HBCUs are helping to prepare our Nation's young people for the challenges and opportunities of the new millennium.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 20 through September 26, 1998, as National Historically Black Colleges and Universities Week. I call upon the people of the United States, including government officials, educators, and administrators, to observe this week with appropriate programs, ceremonies, and activities honoring America's Historically Black Colleges and Universities and their graduates.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of September, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William Clinton

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