AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

3–10–94
Vol. 59 No. 47

federal register

Thursday
March 10, 1994

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

3–10–94
Vol. 59 No. 47
Pages 11175–11472

federal register

Thursday
March 10, 1994

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC and Oakland, CA see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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3. The important elements of typical Federal Register documents.
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Contents

Federal Register

Vol. 59, No. 47

Thursday, March 10, 1994

Actuaries, Joint Board for Enrollment
See Joint Board for Enrollment of Actuaries

Administration on Aging
See Aging Administration

Agency for Toxic Substances and Disease Registry
NOTICES
Superfund program:
Substance-specific applied research program; implementation status, 11434–11441

Aging Administration
NOTICES
Agency information collection activities under OMB review, 11278

Agricultural Marketing Service
RULES
Milk marketing orders:
Southwest Plains, 11180–11182

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Cooperative State Research Service
See Food and Nutrition Service
NOTICES
Agency information collection activities under OMB review, 11244

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Mediterranean fruit fly, 11177–11180

Antitrust Division
NOTICES
National cooperative research notifications:
Air Products & Chemicals, Inc., 11310
Bell Communications Research, Inc., 11310
Gas Utilization Research Forum, 11310
MCI Telecommunications Corp., 11310–11311

Army Department
NOTICES
Meetings:
Military Traffic Management Command Symposium, 11256
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Battelle Pacific Northwest Laboratories, 11256–11257

Centers for Disease Control and Prevention
NOTICES
Meetings:
Fetal Alcohol Syndrome (FAS) data collaboration, 11278

Children and Families Administration
NOTICES
Agency information collection activities under OMB review, 11277–11278

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
California, 11249

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See Minority Business Development Agency
See National Oceanic and Atmospheric Administration
See National Technical Information Service

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Dominican Republic, 11255
Myanmar, 11256

Community Services Office
NOTICES
State median income estimates for four-person families (1995 FY), 11281–11282

Cooperative State Research Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Food and agricultural sciences national needs graduate fellowships program, 11244–11245
Meetings:
Committee of Nine, 11456

Customs Service
PROPOSED RULES
Imported merchandise; rules of origin, 11225

Defense Department
See Army Department
RULES
Federal Acquisition Regulation (FAR):
Buy American Act—
Construction materials; definition, 11377–11378
Exemption list; steel conduit removed, 11377
Commercial products preference, 11373–11374
Contractor qualifications; unfair trade practices; made in America labels, 11371–11373
Corrections and technical amendments, 11387–11388
Cost or pricing data threshold increase, 11374, 11375
Defense traffic management regulation, 11382–11383
Federal Courts Administration Act; claim certification procedures and alternative means of dispute resolution procedures, 11380–11382
Government property reports, 11384–11385
Independent research and development and bid and proposal costs, 11378–11379
Miscellaneous amendments, 11368–11370
Nonmanufacturer rule, 11375–11376
Plant equipment records, 11383–11384
Prompt payment overseas, 11379–11380
Records examination, 11378
Reimbursement, interest charges, and penalties for overpayment; clarification, 11374–11375
Returnable cylinders, 11385–11386

Small business competitiveness demonstration program, 11376–11377
Small business innovation research program rights in data, 11386–11387
Taxpayer Identification Number; information collection and reporting, 11371
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 11410–11411
Meetings:
Scientific Advisory Board, 11256

Delaware River Basin Commission
RULES
Practice and procedure rules:
Administrative manual—
Nonpoint sources of pollution; special protection waters, 11458
NOTICES
Comprehensive plan and water code; and administrative manual; water quality regulations:
Nonpoint sources of pollution; special protection waters, 11459

Education Department
PROPOSED RULES
Elementary and secondary education:
Local educational agencies and migrant education Chapter 1 programs, 11444–11446
NOTICES
Racial incidents and harassment against students at educational institutions; investigative guidance, 11448–11454

Employment and Training Administration
NOTICES
Adjustment assistance:
Black & Decker Co., Inc., et al., 11324–11325
CPC International, Inc., et al., 11325
Cypress Sierrita Corp., 11325
Elliott Turbomachinery Co. et al., 11325–11327

Energy Department
See Federal Energy Regulatory Commission
RULES
Acquisition regulations:
Procurement integrity; technical amendments, 11197–11198
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
Savannah River Site, SC; bridge replacement, 11258–11259

Environmental Protection Agency
RULES
Air quality planning purposes; designation of areas:
Iowa, 11193–11195
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Arizona, 11228–11230
NOTICES
Drinking water:
Public water supply supervision program—
Tennessee, 11267–11268
Municipal solid waste landfill permit programs; adequacy determinations:
Michigan, 11268–11271
Water pollution; discharge of pollutants (NPDES):
Marine sanitation device standard; petitions—
Massachusetts, 11271–11272

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 11364

Executive Office of the President
See Management and Budget Office
See Presidential Documents
See Trade Representative, Office of United States

Family Support Administration
See Community Services Office

Federal Aviation Administration
RULES
Airworthiness directives:
Boeing, 11182
Standard instrument approach procedures, 11182–11185
PROPOSED RULES
Class D airspace, 11222–11223, 11224–11225
VOR Federal airways, 11223–11224
NOTICES
Environmental statements; availability, etc.:
Cincinnati/Northern Kentucky International Airport, KY, 11356
Passenger facility charges; applications, etc.:
Modesto City-County Harry Sham Field Airport, CA, 11356–11357

Federal Bureau of Investigation
NOTICES
Meetings:
National Stolen Auto Part Information System Federal Advisory Committee, 11311

Federal Election Commission
PROPOSED RULES
National Voter Registration Act:
National mail registration form and recordkeeping and reporting requirements, 11211–11222
NOTICES
Meetings; Sunshine Act, 11364

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Northeast Utilities Service Co. et al., 11257–11258
Natural gas certificate filings:
CNG Transmission Corp. et al., 11259–11261
Applications, hearings, determinations, etc.:
Algonquin Gas Transmission Co., 11259
Allegheny Power Service Corp., 11259
Arkla Energy Resources Co., 11259
Colorado Interstate Gas Co., 11261
Columbia Gas Transmission Corp., 11261
Columbia Gulf Transmission Co., 11261–11262
El Paso Natural Gas Co., 11262
Florida Gas Transmission Co., 11262–11263
High Island Offshore System, 11263
KN Energy, Inc., 11263
Natural Gas Pipeline Co. of America, 11263–11264
Northern Natural Gas Co., 11264

Northwest Pipeline Corp., 11264–11265
Panhandle Eastern Pipe Line Co., 11265
Southern Natural Gas Co., 11265
Transcontinental Gas Pipe Line Corp., 11265–11266
Trunkline Gas Co., 11266–11267
U–T Offshore System, 11267
West Texas Gas, Inc., 11267

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Adair County, MO, 11357

Federal Railroad Administration
PROPOSED RULES
Freight car safety standards; maintenance-of-way equipment, 11238–11240

Federal Reserve System
NOTICES
Agency information collection activities under OMB review, 11272–11273

Fish and Wildlife Service
RULES
Clean Vessel Act pumpout grant program; implementation, 11204–11209
Migratory bird permits:
Federal falconry standards; Kansas, New Hampshire, and Rhode Island, 11203–11204
NOTICES
Clean Vessel Act:
Pumpout stations and dump stations; technical guidelines, 11290–11306
Endangered and threatened species permit applications, 11306–11307

Food and Drug Administration
NOTICES
Food additive petitions:
Exxon Chemical Co., 11278–11279

Food and Nutrition Service
NOTICES
Child nutrition programs:
Women, infants, and children; special supplemental food program; poverty income guidelines, 11247–11249
Food distribution programs:
Commodity supplemental food program; elderly poverty income guidelines, 11245–11247

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Arizona
Intel Corp.; semiconductors and computer products manufacturing facility, 11249–11250

General Services Administration
RULES
Federal Acquisition Regulation (FAR):
Buy American Act—
Construction materials; definition, 11377–11378
Exemption list; steel conduit removed, 11377
Commercial products preference, 11373–11374
Contractor qualifications; unfair trade practices; made in America labels, 11371–11373
Corrections and technical amendments, 11387–11388
Cost or pricing data threshold increase, 11374, 11375
Defense traffic management regulation, 11382–11383
Federal Courts Administration Act; claim certification procedures and alternative means of dispute resolution procedures, 11380–11382
Government property reports, 11384–11385
Independent research and development and bid and proposal costs, 11378–11379
Miscellaneous amendments, 11368–11370
Nonmanufacturer rule, 11375–11376
Plant equipment records, 11383–11384
Prompt payment overseas, 11379–11380
Records examination, 11378
Reimbursement, interest charges, and penalties for overpayment; clarification, 11374–11375
Returnable cylinders, 11385–11386
Small business competitiveness demonstration program, 11376–11377
Small business innovation research program rights in data, 11386–11387
Taxpayer Identification Number; information collection and reporting, 11371
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 11410–11411
Federal travel:
Subsistence expense payment options for conference attendance; bulletin availability, 11273

Geological Survey
NOTICES
Topographic quadrangle map; 15-minute series; abandonment, 11306–11307

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Aging Administration
See Centers for Disease Control and Prevention
See Children and Families Administration
See Community Services Office
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
See Public Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Strengthening community supports for youth development, 11273–11277

Health Care Financing Administration
PROPOSED RULES
Medicare:
Post-contract protections and other coordinated care issues, 11230–11238

Health Resources and Services Administration
See Public Health Service

Housing and Urban Development Department
NOTICES
Grant and cooperative agreement awards:
Elder cottage housing opportunity (ECHO) demonstration program, 11286–11287
Grants and cooperative agreements; availability, etc.:
HOME Investment Partnerships Act program—
Indian applicants, 11424–11431

Public and Indian housing—
Public housing drug elimination technical assistance program, 11418–11422

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
White Mountain Apache Indian Reservation, AZ, 11416
Tribal-State Compacts approval; Class III (casino) gambling:
Three Affiliated Tribes, ND, 11414

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Indian Affairs Bureau
See Land Management Bureau
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office

International Development Cooperation Agency
See Overseas Private Investment Corporation

International Trade Administration
NOTICES
Antidumping:
Paper clips from—
China, 11250
Phthalic anhydride from—
Venezuela, 11250
Silicomanganese from—
China and Ukraine, 11250–11251
Tapered roller bearings, four inches or less in outside diameter, and components, from—
Japan, 11251
Export trade certificates of review, 11251–11252

International Trade Commission
NOTICES
Import investigations:
Andean Trade Preference Act; effect on U.S. economy and Andean drug crop eradication, 11308
Carbon steel butt-weld pipe fittings from—
France et al., 11307–11308
Vehicle security systems and components, 11308
Meetings; Sunshine Act, 11364

Interstate Commerce Commission
PROPOSED RULES
Practice and procedure:
Negotiated Rates Act of 1993; section 4 implementation, 11240–11243

Joint Board for Enrollment of Actuaries
NOTICES
Meetings:
Actuarial Examinations Advisory Committee, 11309

Justice Department
See Antitrust Division
See Federal Bureau of Investigation
See Parole Commission
See Victims of Crime Office
NOTICES
Agency information collection activities under OMB review, 11309
Pollution control; consent judgments:
Valentine, Dale, et al., 11309–11310

Labor Department
See Employment and Training Administration
NOTICES
Meetings:
Child labor practices throughout world; hearings, 11324

Land Management Bureau
RULES
Public land orders:
Alaska, 11196
Arizona, 11195–11196
NOTICES
Closure of public lands:
Nevada, 11287
Coal leases, exploration licenses, etc.:
Oklahoma; correction, 11288
Environmental statements; availability, etc.:
Lewistown District et al., MT; predator management, 11288
Realty actions; sales, leases, etc.:
Nevada, 11289
Survey plat filings:
Idaho, 11288
Wyoming, 11288
Withdrawal and reservation of lands:
California, 11289
Idaho, 11289–11290

Legal Services Corporation
NOTICES
Grants and cooperative agreements; availability, etc.:
Law school civil clinical programs, 11327–11328

Management and Budget Office
NOTICES
Commercial activities performance (Circular A–76), 11335

Minority Business Development Agency
NOTICES
Business development center program applications:
California, 11252–11254

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Acquisition planning and competitive source selection processes; streamlining techniques, 11198–11200
Procurement plan contents regarding strategies to encourage cost realism, 11200
Federal Acquisition Regulation (FAR):
Buy American Act—
Construction materials; definition, 11377–11378
Exemption list; steel conduit removed, 11377
Commercial products preference, 11373–11374
Contractor qualifications; unfair trade practices; made in America labels, 11371–11373
Corrections and technical amendments, 11387–11388
Cost or pricing data threshold increase, 11374, 11375
Defense traffic management regulation, 11382–11383
Federal Courts Administration Act; claim certification procedures and alternative means of dispute resolution procedures, 11380–11382
Government property reports, 11384–11385
Independent research and development and bid and proposal costs, 11378–11379
Miscellaneous amendments, 11368–11370
Nonmanufacturer rule, 11375–11376
Plant equipment records, 11383–11384

Prompt payment overseas, 11379–11380
Records examination, 11378
Reimbursement, interest charges, and penalties for overpayment; clarification, 11374–11375
Returnable cylinders, 11385–11386
Small business competitiveness demonstration program, 11376–11377
Small business innovation research program rights in data, 11386–11387
Taxpayer Identification Number; information collection and reporting, 11371
NOTICES
Federal Acquisition Regulation (FAR):
Agency information collection activities under OMB review, 11410–11411

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 11364

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Occupant crash protection—
Air bag requirements; vehicle labeling, 11200–11203
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Tradewinds Conversions, Inc., 11357–11358

National Institutes of Health
NOTICES
Meetings:
National Institute on Deafness and Other Communication Disorders, 11279
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Boehringer Mannheim Pharmaceutical Corp., 11279–11280
NeoRx Corp. et al., 11280–11281
Samuelsson & Wadstein Medicina AB, 11286

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish, 11209–11210
NOTICES
Permits:
Marine mammals, 11254

National Science Foundation
NOTICES
Meetings:
Chemical and Thermal Systems Special Emphasis Panel, 11328
Design and Manufacturing Systems Special Emphasis Panel, 11328
Ecological Studies Advisory Committee et al., 11329
Education and Human Resources Advisory Committee, 11328–11329

National Technical Information Service
NOTICES
Meetings:
Advisory Board, 11254–11255

Nuclear Regulatory Commission
NOTICES
Agency information collection activities under OMB review, 11329–11330
Environmental statements; availability, etc.:
Houston Lighting & Power Co. et al., 11330
Meetings:
Nuclear Waste Advisory Committee, 11330–11331
Operating licenses, amendments; no significant hazards considerations; biweekly notices; correction, 11331
Applications, hearings, determinations, etc.:
Entergy Operations, Inc., 11331–11333
Tennessee Valley Authority, 11334
Washington Public Power Supply System, 11334–11335

Office of Management and Budget
See Management and Budget Office

Office of United States Trade Representative
See Trade Representative, Office of United States

Overseas Private Investment Corporation
NOTICES
Meetings; Sunshine Act, 11364

Parole Commission
RULES
Federal prisoners; paroling and releasing, etc.:
Parole hearings conducted by hearing examiners, 11186–11187
Prior convictions, use for salient factor scoring, 11185–11186

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
Distress and standard terminations; correction, 11187–11188

Postal Service
RULES
International Mail Manual:
Items mailed by or on behalf of senders in U.S. and other countries, 11188–11193

Presidential Documents
PROCLAMATIONS
Special observances:
Irish-American Heritage Month (Proc. 6656), 11175–11176
EXECUTIVE ORDERS
Government agencies and employees:
Energy efficiency and water conservation (EO 12902), 11463–11471

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
NOTICES
Meetings:
National Toxicology Program; Scientific Counselors Board, 11282
Technical reports for public review, 11282–11286

Railroad Retirement Board
NOTICES
Supplemental annuity program; determination of quarterly rate of excise tax, 11336

Reclamation Bureau
NOTICES
Privacy Act:
Systems of records, 11290

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 11364–11365
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 11336–11338
Depository Trust Co., 11338–11339
Government Securities Clearing Corp., 11345–11349
Midwest Stock Exchange, Inc., 11339–11342
Pacific Stock Exchange, Inc., 11342–11344
Self-regulatory organizations; unlisted trading privileges:
Chicago Stock Exchange, Inc., 11336
Pacific Stock Exchange, Inc., 11342
Philadelphia Stock Exchange, Inc., 11344–11345
Applications, hearings, determinations, etc.:
Composite Bond & Stock Fund, Inc., et al., 11349–11354
SLH Michigan Municipals Fund, 11354–11355
SLH Ohio Municipals Fund, 11354

State Department
NOTICES
Meetings:
International Commission for Conservation of Atlantic Tunas, United States Section Advisory Committee, 11355–11356

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Mississippi, 11225–11227
Ohio, 11227–11228

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Trade Representative, Office of United States
NOTICES
Germany:
U.S. goods procurement by European telecommunications utilities; sanctions termination, 11360
Russian Federation and U.S.; agreement regarding international trade in commercial space launch services; implementation guidelines, 11360–11363

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration

Treasury Department
See Customs Service
NOTICES
Agency information collection activities under OMB review, 11358–11360

Victims of Crime Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Victims of Crime Act victim assistance program; guidelines, 11311–11323

Separate Parts in This Issue

Part II
Department of Defense; General Services Administration; National Oceanic and Atmospheric Administration, 11368–11408

Part III
Department of Defense; General Services Administration; National Oceanic and Atmospheric Administration, 11410–11411

Part IV
Department of the Interior, Bureau of Indian Affairs, 11414

Part V
Department of the Interior, Bureau of Indian Affairs, 11416

Part VI
Department of Housing and Urban Development, 11418–11422

Part VII
Department of Housing and Urban Development, 11424–11431

Part VIII
Department of Health and Human Services, Agency for Toxic Substances and Disease Registry, 11434–11441

Part IX
Department of Education, 11444–11446

Part X
Department of Education, 11448–11454

Part XI
Department of Agriculture, Cooperative State Research Service, 11456

Part XII
Delaware River Basin Commission, 11458–11459

Part XIII
The President, 11461–11471

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Executive Orders:

12759 (Revoked in part by EO 12902)..... 11463
12873 (See 12902)..... 11463
12902..... 11463

Proclamations:

6656..... 11175

7 CFR

301..... 11177
1106..... 11180

11 CFR

Proposed Rules:

8..... 11211

14 CFR

39..... 11182
97 (2 documents)..... 11182, 11183

Proposed Rules:

71 (3 documents)..... 11222, 11223, 11224

18 CFR

401..... 11458

19 CFR

Proposed Rules:

4..... 11225
10..... 11225
12..... 11225
102..... 11225
134..... 11225
177..... 11225

28 CFR

2 (2 documents)..... 11185, 11186

29 CFR

2616..... 11187
2617..... 11187

30 CFR

Proposed Rules:

924..... 11225
935..... 11227

34 CFR

Proposed Rules:

200..... 11444
201..... 11444

39 CFR

20..... 11188

40 CFR

81..... 11193

Proposed Rules:

52..... 11228

42 CFR

Proposed Rules:

417..... 11230

43 CFR

Public Land Orders:

7031..... 11195
7032..... 11196
7033..... 11196

48 CFR

1 (2 documents)..... 11368, 11387
3..... 11387
4..... 11371
5..... 11387
9..... 11371
10..... 11373
14..... 11374
15 (4 documents)..... 11374, 11375, 11387
16..... 11387
19 (3 documents)..... 11375, 11376, 11387
25 (3 documents)..... 11377, 11378
31 (2 documents)..... 11378, 11387
32..... 11379
33..... 11380
42 (3 documents)..... 11380, 11382, 11387
45 (2 documents)..... 11383, 11384
47 (2 documents)..... 11382, 11385
48..... 11387
52 (8 documents)..... 11371, 11374, 11377, 11379, 11380, 11385, 11386, 11387
53..... 11387
903..... 11197
1807 (2 documents)..... 11198, 11200
1815..... 11198
1852..... 11198
1870..... 11198

49 CFR

571..... 11200

Proposed Rules:

215..... 11238
1002..... 11240
1011..... 11240
1130..... 11240

50 CFR

21..... 11203
85..... 11204
672..... 11209

Federal Register
Vol. 59, No. 47
Thursday, March 10, 1994

Presidential Documents

Title 3—

The President

Proclamation 6656 of March 8, 1994

Irish-American Heritage Month, 1994

By the President of the United States of America

A Proclamation

The patchwork quilt of United States history is intricately woven with the many great deeds and memorable contributions of Irish Americans. Since the founding of our country, immigrants from the Emerald Isle have shared in weaving the fabric of a new nation. And it is in no small part their efforts that have made America a land of both unparalleled diversity and infinite promise.

Fleeing the Great Potato Famine of the 19th century, hundreds of thousands of Irish immigrants joined their cousins in the new world. They arrived to face the considerable challenges of an unfamiliar territory with untamed resources and a brewing conflict over the nature of freedom and self-governance. Yet these brave pioneers—our grandparents and great-grandparents—were filled with hope and a vision of a better life. From John F. Kennedy to Tip O'Neill, George M. Cohan to Flannery O'Connor, Irish Americans have graced our political and cultural life with a spirit born of the courage and idealism inspired by their ancestors.

Today, well over 200 years since the American colonies declared their independence, Irish Americans and people everywhere are again filled with hope. After centuries of conflict, we are deeply encouraged by the prospects for peace in Northern Ireland. We look forward to a day in the near future when the Irish strength of character and faith in justice bring lasting peace to this troubled land—a day when their love for harmony overtakes the differences between religious traditions.

As we celebrate the vital bonds between our two great nations, I reaffirm my call for an end to all violence in Northern Ireland. In the great tradition of our common heritage, the people of the United States renew our pledge to the people of Ireland, rededicating ourselves to fostering understanding, cooperation, and peace.

In tribute to all Irish Americans, the Congress, by Senate Joint Resolution 119, has designated March 1994 as "Irish-American Heritage Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim March 1994 as Irish-American Heritage Month. I urge all Americans to observe this month with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of March, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94–5748
Filed 3–8–94; 1:38 pm]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 59, No. 47
Thursday, March 10, 1994

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket 91–155–13]

Mediterranean Fruit Fly; Addition to the Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding portions of Los Angeles, Orange, and San Bernardino Counties, CA, to the list of quarantined areas. This action is necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the United States.

DATES: Interim rule effective March 4, 1994. Consideration will be given only to comments received on or before May 9, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91–155–13. 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: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

We established the Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78–10; referred to below as the regulations) and quarantined the Hancock Park area of Los Angeles County, CA, in an interim rule effective on November 5, 1991, and published in the **Federal Register** on November 13, 1991 (56 FR 57573–57579, Docket No. 91–155). The regulations impose restrictions on the interstate movement of regulated articles from quarantined areas in order to prevent the spread of the Medfly to noninfested areas of the United States. We have published a series of interim rules amending these regulations by adding to or removing from the list of quarantined areas certain portions of Los Angeles, Santa Clara, Orange, San Bernardino, and San Diego Counties, CA. Amendments affecting California were made effective on September 10, and November 12, 1992; and on January 19, July 16, August 3, September 15, October 8, November 22, and December 16, 1993; and on January 10 and February 14, 1994 (57 FR 42485–42486, Docket No. 91–155–2; 57 FR 54166–54169, Docket No. 91–155–3; 58 FR 6343–6346, Docket No. 91–155–4; 58 FR 39123–39124, Docket No. 91–155–5; 58 FR 42489–42491, Docket No. 91–155–6; 58 FR 49186–49190, Docket No. 91–155–7; 58 FR 53105–53109, Docket No. 91–155–8; 58 FR 63027–63031, Docket No. 91–155–9; 58 FR 67627–67630, Docket No. 91–155–10; 59 FR 2281–2283, Docket No. 91–155–11; and 59 FR, Docket No. 91–155–12).

Recent trapping surveys by inspectors of California State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that additional infestations of Medfly have been discovered in the Brea, Glendora, Long Beach, San Antonio, San Dimas, Santa Monica, Torrance, and Yorba Linda areas of Los Angeles, Orange, and San Bernardino Counties, CA.

The regulations in § 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Medfly has been found.

In accordance with these criteria and the recent Medfly findings described above, we are amending § 301.78–3 by adding areas in Los Angeles, Orange, and San Bernardino Counties, CA, to the list of quarantined areas. These additions to the previously quarantined areas in these counties will create one single area of 1576 square miles in Los Angeles, Orange, and San Bernardino Counties. The revised quarantine area is as follows:

Los Angeles, Orange, and San Bernardino Counties. That portion of the counties beginning at the intersection of the Angeles National Forest boundary and Sage Hill Road; then north from the intersection along an imaginary line to its intersection with Brown Mountain Road at Millard Campground; then west along Brown Mountain Road to its intersection with El Prieto Road; then southwest along El Prieto Road to its intersection with the Pasadena City limit; then north and west along the Pasadena City limit to its intersection with the La Canada Flintridge City limit; then west and south along the La Canada Flintridge City limit to its intersection with Foothill Boulevard; then northwest along Foothill Boulevard to its intersection with La Crescenta Avenue; then south along La Crescenta Avenue to its intersection with Shirley Jean Street; then southwest from this intersection along an imaginary line to the end of Allen Avenue; then southwest along Allen Avenue to its intersection with Mountain Street; then northwest along Mountain Street to its intersection with Sunset Canyon Drive; then northwest along Sunset Canyon Drive to its intersection with Olive Avenue; then southwest along Olive Avenue to its intersection with

Interstate Highway 5; then northwest along Interstate Highway 5 to its intersection with Sunland Boulevard; then northeast along Sunland Boulevard to its intersection with Interstate Highway 210; then northwest along Interstate Highway 210 to its intersection with Bledsoe Street; then northeast along Bledsoe Street to its intersection with Olive View Drive; then west along Olive View Drive to its intersection with Cobalt Street; then north along Cobalt Street to its intersection with the Los Angeles City limit; then west and south along the Los Angeles city limit to its intersection with Limekiln Canyon Road; then south along Limekiln Canyon Road to its intersection with Sesnon Boulevard; then west along Sesnon Boulevard to its intersection with Winnetka Avenue; then south along Winnetka Avenue to its intersection with State Highway 118; then west along State Highway 118 to its intersection with State Highway 27 (Topanga Canyon Boulevard); then south along State Highway 27 to its intersection with Parthenia Street; then east along Parthenia Street to its intersection with Tampa Avenue; then south along Tampa Avenue to its intersection with U.S. Highway 101; then east along U.S. Highway 101 to its intersection with Interstate Highway 405; then southeast along Interstate Highway 405 to its intersection with Sunset Boulevard; then southwest along Sunset Boulevard to its intersection with Chautauqua Boulevard; then southwest on Chautauqua Boulevard to its intersection with State Highway 1; then Southeast along State Highway 1 to its intersection with Ocean Avenue; then Southeast along Ocean Avenue to its intersection with Barnard Way; then southeast along Barnard Way to its intersection with Neilson Way; then southeast along Neilson Way to its intersection with Pacific Avenue; then southeast along Pacific Avenue to its intersection with Via Marina; then southeast from this intersection along an imaginary line to the intersection of 62nd Avenue and Pacific Avenue; then southeast along Pacific Avenue to its intersection with Vista del Mar; then southeast along Vista del Mar to its intersection with North Highland Avenue; then southeast along North Highland Avenue to its intersection with Manhattan Beach Boulevard; then southwest along Manhattan Beach Boulevard to its intersection with the Manhattan Beach Pier; then southwest along Manhattan Beach Pier to its intersection with the Pacific Ocean coastline; then south and east along the Pacific Ocean coastline to its intersection with the San Pedro Breakwater; then east along the San Pedro Breakwater to the Los Angeles Harbor Light Station; then east from the Los Angeles Harbor Light Station along an imaginary line to the Los Angeles Harbor Entrance East Light; then northeast from the Los Angeles Harbor Entrance East Light along the Middle Breakwater to the Long Beach Harbor Light Station; then north from the Long Beach Harbor Light Station along an imaginary line to the intersection of Harbor Scenic Way and Harbor Scenic Drive; then northwest along Harbor Scenic Drive to its intersection with Queen's Way; then north along Queen's Way to its intersection with Ocean Boulevard; then east and southeast along Ocean Boulevard to its intersection with 72nd Place; then southeast from this intersection along an imaginary line to the intersection of 1st Street and Ocean Avenue; then southeast along Ocean Avenue to its intersection with Seal Beach Boulevard; then northeast along Seal Beach Boulevard to its intersection with State Highway 1; then southeast along State Highway 1 to its intersection with Main Street; then north along Main Street to its intersection with Adams Avenue; then east along Adams Avenue to its intersection with Fairview Road; then north along Fairview Road to its intersection with Interstate Highway 405; then east and southeast along Interstate Highway 405 to its intersection with Culver Drive; then northeast along Culver Drive to its intersection with Walnut Avenue; then northwest along Walnut Avenue to its intersection with Jamboree Road; then northeast along Jamboree Road to its intersection with Chapman Avenue; then north from this intersection along an imaginary line to the intersection of Serrano Avenue and Nohl Ranch Road; then northeast along Serrano Avenue to its intersection with Weir Canyon Road; then north from this intersection along an imaginary line to the northern intersection of the Yorba Linda City limit and the San Bernardino County line; then northeast from this intersection along an imaginary line to the intersection of State Highway 71 and State Highway 83 (Euclid Avenue); then north along State Highway 83 to its intersection with Eucalyptus Avenue; then east along Eucalyptus Avenue to its intersection with Walker Avenue; then north along Walker Avenue to its intersection with Riverside Drive; then east along Riverside Drive to its intersection with Vineyard Avenue; then north along Vineyard Avenue to its intersection with Mission Boulevard; then northwest along Mission Boulevard to its intersection with Grove Avenue; then north along Grove Avenue to its intersection with Holt Boulevard; then east along Holt Boulevard to its intersection with Vineyard Avenue; then north along Vineyard Avenue to its intersection with Carnelian Street; then north along Carnelian Street to its intersection with Hillside Road; then west along Hillside Road to its intersection with Sapphire Street; then north along Sapphire Street to its intersection with Almond Street; then north from this intersection along an imaginary line to its intersection with the Rancho Cucamonga City limit; then west along the Rancho Cucamonga City limit to its intersection with the San Bernardino National Forest Boundary; then west along the San Bernardino National Forest Boundary to its intersection with the Angeles National Forest Boundary; then west along the Angeles National Forest Boundary to its intersection with Mt. Baldy Road; then south from this intersection along an imaginary line to the intersection of 19th Street and Benson Avenue; then south along Benson Avenue to its intersection with State Highway 30; then west along State Highway 30 to its intersection with Foothill Boulevard; then northwest along Foothill Boulevard to its intersection with the Glendora City limit; then north from the Glendora City limit to its intersection with the Angeles National Forest Boundary; then west along the Angeles National Forest Boundary to the point of beginning.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Mediterranean fruit fly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

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

This interim rule affects the interstate movement of regulated articles from the Brea, Glendora, Long Beach, San Antonio, San Dimas, Santa Monica, Torrance, and Yorba Linda areas of Los Angeles, Orange, and San Bernardino Counties, CA. There are approximately 726 small entities that could be affected, including 561 fruit sellers, 67 nurseries, 20 growers, 64 vendors, 3 swapmeets, 8 wholesale distributors, 2 packers, and 1 farmers market.

These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, most of these small entities sell regulated articles primarily for local intrastate, not interstate, movement, and the sale of these articles would not be affected by this interim regulation.

In the new quarantined areas in Los Angeles, Orange, and San Bernardino Counties, the effect on those few small entities that do move regulated articles interstate from parts of the quarantined areas will be minimized by the availability of various treatments that, in most cases, will allow these small entities to move regulated articles interstate with very little additional cost. Also, many of these entities sell other items in addition to the regulated articles so that the effect, if any, of this regulation on these entities should be minimal. Further, the number of affected entities is small compared with the thousands of small entities that move these articles interstate from nonquarantined areas in California and other States.

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

Executive Order 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 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for our conclusion that implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health and the natural environment.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection 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. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

The information collection and recordkeeping requirements contained in subpart 301.78 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) under OMB control number 0579–0088.

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.78–3, paragraph (c) is amended by removing the entries for Los Angeles County, Los Angeles and Orange Counties, and Los Angeles and San Bernardino Counties; and by adding, in alphabetical order, one entry for Los Angeles, Orange, and San Bernardino Counties to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) * * *

California

Los Angeles, Orange, and San Bernardino Counties. That portion of the counties beginning at the intersection of the Angeles National Forest boundary and Sage Hill Road; then north from the intersection along an imaginary line to its intersection with Brown Mountain Road at Millard Campground; then west along Brown Mountain Road to its intersection with El Prieto Road; then southwest along El Prieto Road to its intersection with the Pasadena City limit; then north and west along the Pasadena City limit to its intersection with the La Canada Flintridge City limit; then west and south along the La Canada Flintridge City limit to its intersection with Foothill Boulevard; then northwest along Foothill Boulevard to its intersection with La Crescenta Avenue; then south along La Crescenta Avenue to its intersection with Shirley Jean Street; then southwest from this intersection along an imaginary line to the end of Allen Avenue; then southwest along Allen Avenue to its intersection with Mountain Street; then northwest along Mountain Street to its intersection with Sunset Canyon Drive; then northwest along Sunset Canyon Drive to its intersection with Olive Avenue; then southwest along Olive Avenue to its intersection with Interstate Highway 5; then northwest along Interstate Highway 5 to its intersection with Sunland Boulevard; then northeast along Sunland Boulevard to its intersection with Interstate Highway 210; then northwest along Interstate Highway 210 to its intersection with Bledsoe Street; then northeast along Bledsoe Street to its intersection with Olive View Drive; then west along Olive View Drive to its intersection with Cobalt Street; then north along Cobalt Street to its intersection with the Los Angeles City limit; then west and south along the Los Angeles city limit to its intersection with Limekiln Canyon Road; then south along Limekiln Canyon Road to its intersection with Sesnon Boulevard; then west along Sesnon Boulevard to its intersection with Winnetka Avenue;

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* * * * *

Done in Washington, DC, this 4th day of March 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–5577 Filed 3–9–94; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 1106

[DA–94–08]

Milk in the Southwest Plains Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This document suspends, for the months of February 1, 1994 through August 31, 1996, a portion of the supply plant shipping requirement and the producer delivery requirement of the Southwest Plains Federal milk marketing order (Order 106). The suspension was requested by Kraft General Foods (Kraft), which contends the suspension is necessary to prevent the uneconomical and inefficient movement of milk and to ensure that producers historically associated with the market will continue to have their milk pooled under Order 106.

EFFECTIVE DATE: February 1, 1994, through August 31, 1996.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1932.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued February 7, 1994; published February 14, 1994 (59 FR 6915).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on February 14, 1994 (59 FR 6915) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. One comment was received in support of the suspension.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined that for the months of February through August of 1994 through 1996, the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1106.6, the words "during the month".

2. In § 1106.7(b)(1), beginning with the words "of February through August" and continuing to the end of the paragraph.

3. In § 1106.13, paragraph (d)(1) in its entirety.

Statement of Consideration

This suspension order temporarily removes the requirement that producers "touch-base" at a pool plant with at least one day's production during the month before their milk is eligible for diversion to a nonpool plant. By suspending the touch-base provision, producer milk will not be required to be delivered to pool plants before going to unregulated manufacturing plants.

Additionally, the suspension allows a supply plant that has been associated with the Southwest Plains order during the months of September through January of each year to qualify as a pool plant—without shipping any milk to a pool distributing plant—during the following months of February through August. Without the suspension, a supply plant would be required to ship 20 percent of its producer receipts to pool distributing plants to qualify as a pool plant during each of the months of February through August.

According to Kraft's letter requesting the suspension, supplemental milk supplies from supply plants will not be needed to meet the fluid needs of distributing plants because there will be an adequate supply of direct-ship producer milk located in the general area of distributing plants to meet the fluid needs of the market. Consequently, it states, there is no need to require supply plants to uneconomically ship milk to distributing plants, nor is there any reason to require producers located some distance from pool distributing plants to deliver their milk to those plants simply for qualifying purposes when it can more economically be diverted directly to manufacturing plants in the production area.

One comment letter was received in support of the suspension request; none were received in opposition to it. A letter submitted by Mid-America Dairymen, Inc. (Mid-Am), stated that Mid-Am and Associated Milk Producers, Inc., two cooperative associations with a substantial number of producers on the market, were in support of the action.

A similar suspension of the supply plant shipping requirements and touch-base requirements has been effective for the past two years during the months of February through August. In both years, there were, in fact, adequate supplies of milk within direct-ship distance of pool distributing plants to meet the fluids needs of the market during these months. Producer milk deliveries in recent months indicate that a similar pattern will hold true for 1994.

For the reasons discussed above, it is appropriate to suspend the touch-base requirement and the specified supply plant shipping requirements for the months of February through August of 1994 through 1996. This suspension period, while unusually long, will preclude the necessity of similar suspensions in each of the next two years. In the event that the market experiences a reduction of direct-ship milk supplies and a need for supplemental milk from supply plants in 1995 or 1996, the suspended provisions can be easily reinstated by terminating this suspension order.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, in that such rule is necessary to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1106

Milk marketing orders.

For the reasons set forth in the preamble, title 7, part 1106, is amended as follows effective February 1, 1994, through August 31, 1996:

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR part 1106 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1106.6 [Suspended in part]

2. In § 1106.6, the words "during the month" are suspended.

§ 1106.7 [Suspended in part]

3. In § 1106.7(b)(1), the words beginning with "of February through August" and continuing to the end of the paragraph are suspended.

§ 1106.13 [Suspended in part]

4. In § 1106.13, paragraph (d)(1) in its entirety is suspended.

Dated: March 1, 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–5489 Filed 3–9–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–02–AD; Amendment 39–8822; AD 94–04–04]

Airworthiness Directives; Boeing Model 757 Series Airplanes Equipped With Rolls Royce Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in the applicability statement of the above-captioned airworthiness directive (AD). that was published in the **Federal Register** on February 11, 1994 (59 FR 6542). A typographical error in the applicability statement of the AD resulted in a reference to a service document that does not exist.

DATES: Effective February 28, 1994.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the **Federal Register** as of February 28, 1994 (59 FR 6542).

FOR FURTHER INFORMATION CONTACT: Sheila Mariano, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2675; fax (206) 227–1182.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 94–04–04, amendment 39–8822, applicable to certain Boeing Model 757 series airplanes equipped with Rolls Royce engines, was published in the **Federal Register** on February 11, 1994 (59 FR 6542). As published, that AD contained a typographical error in the applicability statement: the applicability statement indicated that the airplanes affected by the AD were listed in Boeing Alert Service Bulletin 747–54A0030, Revision 1, dated December 20, 1993; however, the correct service bulletin number is "757–54A0030." The service bulletin number referenced in the applicability statement of the published AD does not exist.

This document corrects the reference to the service bulletin number cited in the applicability statement of AD 94–04–04, to read as follows:

"Applicability: Model 757 series airplanes equipped with Rolls Royce engines; as listed in Boeing Alert Service Bulletin 757–54A0030, Revision 1, dated December 20, 1993; certificated in any category."

Since no other part of the regulatory information has been changed, the final rule is not being republished.

Issued in Renton, Washington on March 3, 1994.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–5404 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 97

[Docket No. 27613; Amdt. No. 1587]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim

publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air), Standard instrument approaches, Weather.

Issued in Washington, DC on February 25, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective April 28, 1994*

Orlando, FL, Central Florida Regional, NDB RWY 9L, Orig.
Orlando, FL, Central Florida Regional, ILS RWY 9L, Orig.
Orlando, FL, Central Florida Regional, VOR/DME RNAV RWY 9L, Orig.
Sanford, FL, Central Florida Regional, NDB RWY 9, Amdt. 11A, Cancelled
Sanford, FL, Central Florida Regional, ILS RWY 9, Amdt. 1A, Cancelled
Sanford, FL, Central Florida Regional, RNAV RWY 9, Amdt. 9A, Cancelled
Baxley, GA, Baxley Muni, VOR/DME–A, Amdt. 3, Cancelled
Patterson, LA, Harry P Williams Memorial, VOR/DME–A, Amdt. 9
Patterson, LA, Harry P Williams Memorial, LOC/DME RWY 23, Amdt. 3
Patterson, LA, Harry P Williams, NDB RWY 5, Amdt. 9
Kinston, NC, Kinston Regional Jetport AT Stallings Field, LOC BC RWY 23, Orig.
North Bend, OR, North Bend Muni, VOR–A, Amdt. 4
North Bend, OR, North Bend Muni, VOR/DME–B, Amdt. 3
North Bend, OR, North Bend Muni, VOR/DME RWY 4, Amdt. 9
North Bend, OR, North Bend Muni, NDB RWY 4, Amdt. 4
North Bend, OR, North Bend Muni, ILS RWY 4, Amdt. 5
Manning, SC, Santee Cooper Regional, VOR/DME–A, Amdt. 4
Manning, SC, Santee Cooper Regional, NDB RWY 2, Amdt. 2
St. George, SC, St. George Muni, VOR/DME–A, Amdt. 1
Walterboro, SC, Walterboro Muni, NDB RWY 23 Amdt. 11
North Kingstown, RI, Quonset State, VOR RWY 34, Orig.

** * * Effective March 31, 1994*

Kingston, NY, Kingston-Ulster, VOR–A, Orig.
Charlotte, NC, Charlotte/Douglas Intl, ILS RWY 36R, Amdt. 7
Medford, OR, Medford-Jackson County, VOR/DME–C, Amdt. 2
Medford, OR, Medford-Jackson County, LOC/DME BC–B, Amdt. 6
Franklin, PA, Venango Regional, ILS RWY 20, Amdt. 4

** * * Effective February 18, 1994*

Wenatchee, WA, Pangborn Memorial, VOR–A Amdt. 6

[FR Doc. 94–5561 Filed 3–9–94; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27614; Amdt. No. 1588]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under the instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from: 1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant eocnomic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on February 25, 1994.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 u.t.c. on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective	State	City	Airport	FDC No.	SIAP
02/01/94	AK	Galena	Galena	4/0578	ILS/DME RWY 25 ORIG... THIS CORRECTS NOTAM IN TL 94–05
02/10/94	MN	Eveleth	Eveleth-Virginia Muni	4/0721	VOR/DME RNAV RWY 27 AMDT 1B
02/17/94	NJ	Trenton	Mercer County	4/0829	TKOF MIN AND DEP PROC AMDT 4...

[FR Doc. 94–5563 Filed 3–9–94; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Using Prior Convictions for Salient Factor Scoring

AGENCY: Parole Commission, Justice.

ACTION: Interim rule, with request for public comment.

SUMMARY: The Parole Commission is clarifying its paroling policy guidelines with regard to using a prior conviction for determining a prisoner's salient factor score, when a prisoner claims the conviction was obtained in violation of his right to counsel, and the records of the conviction are not available. The Commission's present instruction for calculating Item A of the score (prior convictions/adjudications) states that if a prisoner applies to have the appropriate court vacate a prior conviction, and shows that his attempt failed because the records of the conviction were no longer available, the conviction should not be counted. The clarification continues this policy only for felony convictions that occurred prior to 1964 and convictions for all lesser offenses before 1973. For convictions that occurred after these dates, the Commission concludes that the presumption of regularity applies to the prior conviction and that the conviction should be counted in scoring Item A, even though the records of the conviction cannot be retrieved.

DATES: *Effective Date:* March 10, 1994. *Comments:* Public comments must be received by May 9, 1994 in order to be considered prior to adoption of a final rule.

ADDRESSES: Send comments to Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Rockne Chickinell, Office of the General Counsel, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: In its paroling policy guidelines at 28 CFR 2.20, the Parole Commission provides comprehensive instructions for determining a prisoner's salient factor score, which is an actuarial device that assists the Commission in judging the risk of parole violation if the prisoner is paroled. The instruction at Item A (prior convictions/adjudications) provides that a prior conviction is presumed to be valid. However, another instruction in the same paragraph states that if a prisoner seeks to vacate a prior conviction with the appropriate court, and provides evidence to the Commission that the records of the prior proceeding are no longer available, the prior conviction should not be counted. This latter instruction constitutes an exception to the general statement that prior convictions are presumed valid.

The policy on not counting prior convictions when records are unavailable was included in the Commission's internal procedures manual in 1983 and was incorporated in the regulations of the Commission, with all the instructions in the salient factor scoring manual, three years later. 51 FR 7065 (Feb. 28, 1986). It was based on the assumption that federal prisoners incarcerated in 1983 might have incurred prior convictions flawed by a constitutional error so fundamental that the convictions should not be relied upon as reliable evidence of prior criminal behavior, *i.e.*, the violation of the defendant's right to counsel at trial. In 1963, the Supreme Court held that an indigent defendant has the right to appointed counsel in a felony prosecution. *Gideon* v. *Wainwright*, 372 U.S. 335 (1963). It was not until the Court decided the case of *Argersinger* v. *Hamlin*, 407 U.S. 25 (1972), that state courts were advised that this right extended to any prosecution in which the defendant was ultimately sentenced to a jail term. Thus, misdemeanor and petty offense convictions which may have been obtained in violation of the constitutional rule laid down in *Argersinger* would likely have appeared among the prior convictions of many federal prisoners incarcerated in 1983. (The appearance of a prior felony conviction obtained in violation of *Gideon* was possible but less likely.) After these landmark decisions, courts presumably conformed their practices to the new rule, so that the probability that a federal prisoner would have an invalid prior conviction in his criminal record would diminish with time.

The Commission's present instruction at Item A gives the prisoner the benefit of the doubt as to the validity of the prior conviction when the records have been destroyed or are otherwise unavailable. This policy is still logical if it is limited to prior convictions that were incurred before *Gideon* and *Argersinger*. But it should not be extended to convictions obtained after state courts were obliged to follow the decisions. As the Supreme Court recently noted in *Parke* v. *Raley*, _____ U.S. _____, 113 S.Ct. 517, 523–24 (1992), a presumption of regularity attaches to a prior conviction when a defendant attempts to collaterally attack the prior proceeding in another forum. This presumption is especially reasonable when the procedural right allegedly violated in the prior proceeding was firmly established at the time of the prior conviction. *Id.* at 524. In *Parke*, the Court employed this presumption in finding that a state did not violate due process in a sentencing proceeding by requiring a defendant to bear the burden of producing evidence which demonstrates the invalidity of his prior convictions, when records of the prior convictions were unavailable. The Commission believes this presumption of regularity should also apply in parole proceedings in calculating the salient factor score, if the records of the conviction are not available.

Without a revision to the present instruction, the Commission would be restricting itself from counting convictions that are presumptively valid, simply because a court clerk had purged the records of a prior conviction according to a records retirement or destruction schedule. In such a case, the Commission would be ignoring, without good cause, reliable evidence of the risk the prisoner may pose to the public if paroled. In order to prevent this unintended result, the Commission is limiting its policy on not counting prior convictions when records are unavailable to felony convictions that were incurred prior to 1964, and misdemeanor or petty offense convictions incurred prior to 1973. The Commission is retaining its instruction on allowing the use of such convictions

to reach a parole prognosis based on the exercise of clinical judgment, even if the convictions are not counted in scoring Item A.

Finally, the revision clarifies that the policy at issue only allows for challenges to the validity of prior convictions based on the alleged infringement of the right to counsel at trial. The policy does not permit prisoners to collaterally attack prior convictions on constitutional issues that are less easily resolved than the defendant's right to counsel, and less essential to guaranteeing the reliability of the finding of the defendant's guilt.

Implementation

This rule will be applied at all hearings and record reviews (including reviews of appeals to the National Appeals Board), conducted after the effective date.

Executive Order 12291 and Regulatory Flexibility Statement

The Parole Commission has determined that this interim rule is not a major rule within the meaning of Executive Order 12291. This rule, if adopted as a final rule, will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

Accordingly, the Parole Commission adopts the following amendment to 28 CFR part 2.

The Amendment

PART 2—[AMENDED]

(1) The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

(2) 28 CFR part 2, § 2.20 is amended by revising the second and sixth sentences of the Salient Factor Scoring Manual, Item A, paragraph A.7, to read as follows:

§ 2.20 Paroling policy guidelines: Statement of general policy.

* * * * *

Salient Factor Scoring Manual

* * * * *

Item A. Prior Convictions/Adjudications (Adult or Juvenile)

* * * * *

A.7 Convictions Reversed or Vacated on Grounds of Constitutional or Procedural Error

* * * * *

It is the Commission's presumption that a conviction/adjudication is valid, except under the limited circumstances described in the first note below.

* * * * *

Similarly, if the offender has petitioned the appropriate court to overturn a felony conviction that occurred prior to 1964, or a misdemeanor/petty offense conviction that occurred prior to 1973, on the ground that his right to counsel was denied, and the offender provides evidence (*e.g.*, a letter from the court clerk) that the required records are unavailable, do not count the conviction.

* * * * *

Dated: February 10, 1994.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 94–5611 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–01–M

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28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Parole Hearings Conducted by Hearing Examiners

AGENCY: Parole Commission, Justice.

ACTION: Interim rule with request for public comment.

SUMMARY: The U.S. Parole Commission is amending its regulations that define the role of the hearing examiner in conducting parole hearings and in formulating a panel recommendation to the Regional Commissioner. At present, the Commission's rules require that parole hearings be conducted by panels of two examiners, with single examiner hearings being the exception. The amended rule makes single examiner hearings the norm, with the Regional Commissioner having the option to order two-examiner panels for hearings when appropriate. Under the new rule, review and voting by the Regional Administrator will provide the Regional Commissioner with a panel recommendation. The amended rule also permits a hearing examiner (or panel) to withhold the recommended decision that is ordinarily given to the prisoner at the conclusion of a parole hearing, if a critical issues requires further consideration. The purpose served by these changes is to adjust the Commission's procedures to the down-sizing requirements of the Commission's impending abolition, without lessening the quality of justice in parole hearings and decisions.

DATES: Effective Date: The interim rule takes effect April 11, 1994.

COMMENTS: Comments must be submitted by May 9, 1994, in order to be received by the Commission prior to consideration of a final rule.

ADDRESSES: Send comments to Richard K. Preston, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Richard K. Preston, Office of General Counsel, U.S. Parole Commission, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: Under the Sentencing Reform Act of 1984, the U.S. Parole Commission will be abolished effective November 1, 1997. It has a diminishing caseload that consists primarily of offenders who committed their crimes prior to November 1, 1987. In order to achieve an orderly reduction of its staffing levels, it is imperative for the Parole Commission to conduct parole hearings, wherever feasible, with single hearing examiners.

This procedure is authorized by law. In 1986, Congress amended 18 U.S.C. 4208(g) to permit a hearing to be conducted by "a representative of the Commission" as opposed to the former requirement for hearings to be conducted by a panel of two examiners. The legislative history of this statutory amendment makes it clear that Congress intended to remove any bar to single examiner hearings so as to permit the Commission to continue functioning with reduced staff resources.

In order to ensure a thoroughly considered parole decision in every case, review by the Regional Administrator will provide a concurring vote, with a referral to other hearing examiners for a concurring vote in the event of a disagreement between the examiner who conducted the hearing and the Regional Administrator. Regional Commissioners will have the option of ordering panel hearings whenever a hearing examiner is deemed to be insufficiently experienced to conduct a docket of hearings without assistance, and whenever there are particularly complex cases to be heard. To further the purpose of adequate consideration in every case, examiners (and panels of examiners) will no longer be required to give the inmate a final recommendation at the conclusion of each hearing. A final recommendation will continue to be provided in most cases, but in exceptional cases examiners may reserve judgment if there

are issues that require further deliberation. In such cases, the amended rule requires that the prisoner be informed of a tentative recommendation, and of the issue (or issues) that need to be resolved.

Finally, the Commission has cautiously experimented with single examiner hearings for many years, and has traditionally used single examiners to conduct local revocation hearings (as permitted by 18 U.S.C. 4203). The Commission is confident that the quality of its hearings will not be diminished by making single examiner hearings the norm. Regional Commissioners will determine, at their discretion, when panel hearings should be used. The decision to order panel hearings will reflect administrative and staffing concerns only, and will not reflect any prejudgment about prisoners whose hearings will or will not be conducted by a panel of hearing examiners.

Implementation

This interim rule will be followed for all parole hearings (including statutory interim hearings, rescission hearings, special reconsideration hearings, etc.) on dockets conducted after the effective date announced above. It will not apply to transfer treaty prisoners under 18 U.S.C. 4106A.

Executive Order 12291 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this rule is not a major rule within the meaning of Executive Order 12291. It is a rule of internal procedure only, which has been published for comment solely in order to reassure federal prisoners and their representatives of continued fair treatment. This rule will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Amended Rule

Accordingly, the U.S. Parole Commission amends 28 CFR Part 2 as follows:

(1) The authority citation for 28 CFR part 2 continues to read as follows:

PART 2—[AMENDED]

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

(2) 28 CFR Part 2, § 2.13 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 2.13 Initial hearing; procedure.

(a) An initial hearing shall be conducted by a single hearing examiner unless the Regional Commissioner orders that the hearing be conducted by a panel of two examiners. The examiner shall discuss with the prisoner his offense severity rating and salient factor score as described in § 2.20, his institutional conduct and, in addition, any other matter the examiner may deem relevant.

(b) A prisoner may be represented a hearing by a person of his or her choice. The function of the prisoner's representative shall be to offer a statement at the conclusion of the interview of the prisoner by the examiner, and to provide such additional information as the examiner shall request. Interested parties who oppose parole may select a representative to appear and offer a statement. The hearing examiner shall limit or exclude any irrelevant or repetitious statement.

(c) At the conclusion of the hearing, the examiner shall discuss the recommendation and the reasons therefor.

* * * * *

(3) 28 CFR part 2, § 2.23 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 2.23 Delegation to hearing examiners.

(a) There is hereby delegated to hearing examiners the authority necessary to conduct hearings and to make recommendations relative to the grant or denial of parole or reparole, revocation or reinstatement of parole or mandatory release, and conditions of parole. Any hearing may be conducted by a single examiner or by a panel of examiners. A Regional Administrator may function as a hearing examiner for the purpose of obtaining a panel recommendation whenever the Regional Commissioner has not ordered that a hearing be conducted by a panel of two examiners.

(b) The concurrence of two hearing examiners, or of a hearing examiner and the Regional Administrator, shall be required to obtain a panel recommendation to the Regional Commissioner. A panel recommendation is required in each case decided by a Regional Commissioner after the holding of a hearing.

(c) An examiner panel recommendation consists of two concurring examiner votes. In the event of divergent votes, the case shall be referred to another hearing examiner (or to the Regional Administrator in the case of a hearing conducted by a panel of examiners) for another vote. If concurring votes do not result from such a referral, the case shall be referred to any available hearing examiner until a panel recommendation is obtained.

* * * * *

Edward R. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 94–5610 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2616 and 2617

Distress Terminations of Single-Employer Plans; Standard Terminations of Single-Employer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule; correcting amendments.

SUMMARY: This document corrects the Pension Benefit Guaranty Corporation's final rules on distress and standard terminations of single-employer plans that were published in the **Federal Register** on Monday, December 14, 1992 (57 FR 59205). This action is needed to correct certain editorial errors.

EFFECTIVE DATE: January 28, 1993.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Renae R. Hubbard, Special Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On May 27, 1992, the Pension Benefit Guaranty Corporation published a final rule setting forth information to be included in a notice of intent to terminate ("NOIT") by plan administrators of single-employer plans undergoing standard terminations (29 CFR part 2617, subpart E, 57 FR 22167). Part of the information relates to notification to participants and beneficiaries of the insurer or insurers from whom the plan administrator may purchase irrevocable commitments. The PBGC stated in the preamble to its final termination regulations that it was incorporating the provisions of that final rule into both the standard and the distress termination regulations (57 FR 59206, 59212, 59213, 59217, December 14,

1992). In doing so, the PBGC inadvertently omitted certain provisions permitting use of a list of insurers. This final rule corrects those omissions.

List of Subjects in 20 CFR Parts 2616 and 2617

Employee benefit plans, Pension insurance, Pensions, Reporting requirements.

Accordingly, 29 CFR parts 2616 and 2617 are corrected as follows:

PART 2616—DISTRESS TERMINATIONS OF SINGLE-EMPLOYER PLANS

1. The authority citation for part 2616 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341, 1344.

2. Paragraph (d)(4) of § 2616.27 is corrected to read as follows:

§ 2616.27 Notices of benefit distribution.

* * * * *

(d) *Form and content of notices.*

* * *

(4) If distribution of benefits under the plan may be wholly or partially by the purchase of irrevocable commitments from an insurer—

(i) The name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments; or

(ii) If the plan administrator has not identified an insurer or insurers at the time the notice of distribution is issued, a statement that the affected party to whom the notice is directed will be notified at a later date (but no later than 45 days before the date of distribution, as defined in § 2616.2) of the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, irrevocable commitments may be purchased.

* * * * *

3. Paragraph (e)(1)(ii) of § 2616.27 is corrected by inserting "(or from among whom)" after "whom" and before "he or she".

PART 2617—STANDARD TERMINATIONS OF SINGLE-EMPLOYER PLANS

4. The authority citation for part 2617 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341, 1344.

5. Paragraph (d)(9) of § 2617.22 is corrected to read as follows:

§ 2617.22 Notice of intent to terminate.

* * * * *

(d) *Contents of notice.* * * *

(9) If distribution of benefits under the plan may be wholly or partially by the purchase of irrevocable commitments from an insurer—

(i) The name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments; or

(ii) If the plan administrator has not identified an insurer or insurers at the time the notice of intent to terminate is issued, a statement that—

(A) Irrevocable commitments may be purchased from an insurer to provide some or all of the benefits under the plan,

(B) The insurer or insurers have not yet been identified, and

(C) Affected parties will be notified at a later date (but no later than 45 days before the date of distribution, as defined in § 2617.2) of the name and address of the insurer or insurers from whom, or (if not then known) the insurers from among whom, the plan administrator intends to purchase the irrevocable commitments;

* * * * *

6. Paragraph (e)(1)(ii) of § 2617.22 is corrected by inserting "(or from among whom)" after "whom" and before "he or she".

Issued in Washington, DC this 28th day of February 1994.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 94–5429 Filed 3–9–94; 8:45 am]

BILLING CODE 7708–01–M

POSTAL SERVICE

39 CFR Part 20

Amendment of International Mail Manual Subchapter 790

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is adopting amendments of International Mail Manual Subchapter 790 to clarify when a mailing in a foreign country is by or on behalf of a United States resident for purposes of collecting United States domestic postage and to authorize the collection of United States domestic postage on certain mail posted in a foreign country by or on behalf of persons who do not reside in that country.

EFFECTIVE DATE: 12:01 a.m., March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (202) 268–5180.

SUPPLEMENTARY INFORMATION: On April 28, 1993, the Postal Service published in the **Federal Register** (58 FR 25959) a proposed rule that would amend Subchapter 790 of the International Mail Manual to clarify when mail is posted in a foreign country is by or on behalf of a United States resident (ABA remail) for purposes of collecting United States domestic postage. The proposed rule would also authorize the Postal Service to collect United States domestic postage on certain mailings posted in countries with which the Postal Service has not negotiated cost-based terminal dues arrangements by or on behalf of persons who reside in countries with which the Postal Service has negotiated cost-based terminal dues arrangements (ABC remail). The Post Service proposed a broad definition of United States resident that would allow it to collect United States domestic postage on mailings posted in another country not only by firms or entities organized in the United States, but also by firms or entities organized under the laws of other countries when there was a substantial connection between such firms or entities and individuals or firms in the United States. The Postal Service also proposed to define when a mailing was by or on behalf of a United States resident as those mailings in which a United States resident seeks or expects to receive an economic advantage. The Postal Service also proposed a definition of resident of a country with which the Postal Service has cost-based terminal dues arrangements and a definition of when a mailing was by or on behalf of such a resident. Comments were due on or before June 1, 1993, and ten comments were received by that date. Of those comments, six opposed and four supported the proposed rule. In view of the comments, the Postal Service has decided to adopt the proposed rule with amendments to take into account some of the criticisms of the proposal.

Legal Authority

One commenter, an association of companies that compete with the Postal Service, asserts that this rulemaking violates the separation of powers and due process principles of the Constitution because the rule would regulate companies that compete with the Postal Service. The Postal Service disagrees. The commenter cited no cases or other authority to support its assertion, and the Postal Service is not aware of any authority which would support such an assertion. Moreover, the rule does not regulate competitors of

the Postal Service who do not use the Postal Service's services, but only specifies when mailers must pay U.S. domestic postage to secure delivery of their mail. Mailers can continue to use remailers and can deposit their mail in any country they choose. They will be required, however, to pay the full cost of the services they obtain from the Postal Service.

Two commenters, a competitor of the Postal Service and the association of competitors, assert that the proposed rule violates the Postal Reorganization Act because it would extend the application of the Private Express Statutes beyond the United States and to mailable matter other than letters. These commenters also assert that the proposed rule would either impose the Postal Service's bilateral cost-based terminal dues arrangements on third countries or boycott mail from non-cost-based terminal dues countries unless the mailer agreed to pay United States domestic postage. They further assert that the Postal Service is not authorized to adopt an interpretation of the Universal Postal Convention without the approval of the President. The Postal Service disagrees.

The proposed rule would not extend the territorial reach of the Private Express Statutes. The Private Express Statutes, 18 U.S.C. 1694–99, 39 U.S.C. 601–06, generally prohibit the private carriage of letters on post routes without paying postage. There are exceptions to this prohibition, and the Postal Service has suspended the prohibition in some cases, e.g., for extremely urgent letters and for outbound international remail. 39 CFR 320.6, 320.8.

The proposed rule would not require that anything be sent by mail, or that United States postage be paid on non-letter mail sent by a private carrier. It simply prescribes when United States postage must be paid to the Postal Service when the mailer chooses to use the Postal Service to deliver items in the United States. Mailers are free, subject to the internal legislation of the countries where they are, to use any carrier they want for both letter and non-letter mailable matter. The Private Express Statutes would come into play only when a mailer chooses to send letters to the United States via a private carrier. When those letters arrive in the United States, unless they come within an exception or suspension of the Statutes, they must be entered into the mails or have United States postage affixed. That is entirely different from the requirement in this rule that U.S. domestic postage be paid on matter entering the United States through the international mail system and which is tendered to the Postal Service for delivery by choice.

The proposed rule would not impose bilateral terminal dues arrangements on third countries nor would it constitute a boycott of mail from countries with which the Postal Service does not have cost-based terminal dues arrangements. The rule does not alter the terms under which the Postal Service exchanges mail with any other country. Countries that are part of the UPU terminal dues system will continue to pay UPU terminal dues. Mail from those countries will continue to be accepted and processed, except for mail posted by or on behalf of mailers who reside in the United States or one of the countries with which the Postal Service has cost-based terminal dues arrangements. That mail will be held for postage or returned as authorized by Article 25 of the Universal Postal Convention (Washington 1989).

The Postal Service is not required to obtain the approval of the President to adopt this rule. Section 407 of title 39, United States Code, provides in pertinent part, "The decisions of the Postal Service construing or interpreting the provisions of any treaty or convention which has been or may be negotiated and concluded shall, if approved by the President, be conclusive on all officers of the Government of the United States." This provision does not limit the authority to adopt regulations, 39 U.S.C. 401(2), but establishes the conditions under which any interpretation of a postal convention will be binding on all officers of the Government. Indeed, the absence of Presidential approval does not make the Postal Service's interpretation invalid, it merely leaves open the possibility that there might be a disagreement with some other interested agency. Presidential approval simply provides a mechanism for resolving disagreements in favor of the Postal Service.

One commenter asserted that the proposed rule would impermissibly extend the territorial jurisdiction of the Postal Service and could cause conflicts between it and the internal legislation of other countries in which mailers are present. The Postal Service disagrees. The basis of the proposed rule is Article 25 of the Universal Postal Convention. That article authorizes postal administrations to collect domestic postage on certain international mail and the decline to deliver certain international mail. Thus, the proposed rule is not based on domestic law alone, but is based on an international agreement to which virtually all countries adhere. That is far different from the case of purporting to apply domestic legislation to conduct outside the United States. That the Postal Service has decided to apply Article 25 selectively to avoid interference with mailers' decisions which do not adversely affect it does not change the application of Article 25 into an extraterritorial extension of United States jurisdiction.

One commenter asserts that the proposed rule exceeds the authority given by Article 25 because the proposed rule would allow the Postal Service to collect domestic postage on remail posted in a country other than the country where the mailer resides, and Article 25 provides only that postal administrations "shall not be bound to accept, forward, or deliver" such mail and "may send back such items to origin or return them to the senders without repaying the prepaid charge." This comment is accurate insofar as there is no express authorization to collect domestic postage on ABC remail as there is for ABA remail. However, the Postal Service does not believe that the absence of an express authorization precludes it from providing mailers an alternative that can be much less onerous than returning the mail to origin. The purpose of Article 25 and IMM 790 is not to punish remail per se, or for that matter, disrupt commercial activities via the mails. As viewed by the Postal Service, Article 25 is intended to ensure that postal administrations receive appropriate compensation for the services they render. Returning mail to origin can take time, and the mail being returned may be time sensitive. The mailer may also have invested more in a mailing than the postage that has been or will have to be paid. In these cases, the option of securing delivery by paying United States domestic postage can be much more desirable than incurring the expense of waiting for the mail to come back, preparing the mail for posting in a third country, and paying new postage to a third postal administration. Moreover, since United States domestic postage rates are among the lowest in the world, there is some likelihood that the mail would simply come back to the United States prepared as United States mail. This being the case, there appears to be no good reason to require mailers to incur the additional expense of re-preparing the mail, shipping it to the United States or some other country, and then paying new postage.

One commenter asserts that the proposed rule would be a repudiation of the Universal Postal Convention's basic terminal dues arrangements. The Postal Service disagrees. The Convention

contains both terminal dues provisions and Article 25 which authorizes administrations not to accept or deliver ABA or ABC remail. As both those provisions are in the Convention, they must be understood as being consistent with one another. In this respect, the existence of Article 25 is a recognition that terminal dues arrangements that are appropriate, and even essential, for the efficient exchange of mails between many countries can be unfairly exploited for individual gain. Enforcement of Article 25 is not a repudiation of the terminal dues system, it is a recognition of a vulnerability that permits administrations to protect themselves and their customers from unfair exploitation.

One commenter asserts that the Postal Service is not exempt from the Administrative Procedures Act (APA) and that the Supreme Court has rejected the Postal Service's claim to be exempt from the APA. The Postal Service disagrees. Section 410 of title 39, United States Code, provides expressly that "Except as provided by subsection (b) of this section, and except as otherwise provided in this title * * * no Federal law dealing with public or Federal contracts, property, works, officers, employees, budgets, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Postal Service." 39 U.S.C. 410(a). This language plainly exempts the Postal Service from the APA, which is in chapters 5 and 7 of title 5. In subsection (b) of section 410, only sections 552 (public information), 552a (records about individuals), 552b (open meetings) of title 5 are made applicable. Elsewhere in title 39, only section 3001 makes the APA applicable to the Postal Service and then only for mailability proceedings. Thus, nothing in the statute makes the APA applicable to this rulemaking. As for the Supreme Court, in the case mentioned by the commenter, Air Courier Conference of America v. American Postal Workers Union, the Court did not rule on the merits of whether the Postal Service was subject to the APA, but refused to consider an argument based on exemption from the APA because that argument had not been presented to the court below. Not considering an argument is far different from considering an argument and rejecting it.

Definition of United States Resident and of Other Country Resident

Several commenters assert that the proposed rule, insofar as it attempts to elaborate criteria for determining whether a firm or business is resident in the United States in terms of the percentage of ownership of that firm or business by persons who reside in the United States or by other firms or organizations incorporated or organized in the United States, is unreasonable and that it is too broad and could result in legitimate international mailings having to pay twice or having to pay a different compensation rate than the one they are entitled to under the Universal Postal (UPU) Convention. They further assert that it is ambiguous, that it would require a knowledge of corporate information which would be too burdensome for a foreign private carrier or postal administration to ascertain, that it would have adverse consequences operationally and for customers, that efforts to apply the rule will lead to arbitrary actions and disputes, and that it would erect a trade barrier. Similar objections are raised regarding the application of such percentage of ownership criteria to determine the resident status of a sender in another country. In response to these views, the Postal Service is eliminating the percentage of ownership criteria from its proposed rulemaking.

Trade Policy

Two commenters have asserted that the proposed rule is contrary to U.S. trade interests and anti-competitive and that the European Commission has recently started proceedings against enforcement of Article 25. One of the commenters has asserted that Article 25 itself is an anti-competitive, market-allocation scheme. The Postal Service does not agree with these assertions. These commenters have also asserted that President Reagan had instructed the Postal Service not to apply UPU Convention Article 25(4) in an anti-competitive manner. The Postal Service does not consider the proposed rule to be inconsistent with the position President Reagan communicated to the Postal Service or to be anti-competitive. First, the Postal Service sees no inconsistency between U.S. trade interests and its own efforts to assure that it is fairly and adequately compensated for the costs of handling mail from other countries. It would not agree with the implication that remail companies, which target a specific, high-density type of mailing for their services, are entitled to subsidized, below-cost delivery of their mailings by postal administrations or that efforts to assure adequate compensation for the cost of delivery of such mailings are anti-competitive. To the extent that remail companies depend upon such below-cost delivery for the services they offer, they are engaged in an abuse of the international mail system and of U.S. mailers whose payments in effect subsidize such services. Article 25 permits postal administrations to take action which, rather than being anti-competitive, serves to protect themselves against such abuse. To the extent that private carriers provide end-to-end delivery services, Article 25 simply does not apply to their activities. Furthermore, the contention that the European Commission is proceeding against enforcement of Article 25 is ambiguous. The manner in which actions were taken by some European administrations in the past has been challenged by the European Commission. However, there are postal administrations in Europe, such as the German postal administration, which are now aggressively applying Article 25 and these actions are not being challenged by the European Commission.

Improvements in the Terminal Dues System

Three commenters assert that the Postal Service should deal with the problem of uneconomic remail by correcting the flaws of the UPU terminal dues system instead of taking administrative action. The Postal Service agrees that the best way of dealing with uneconomic remail would be to correct the flaws of the terminal dues system, but it has concerns about whether the 186 member countries of the Universal Postal Union, many of which have a vested interest in the current structure, can agree on a system that will adequately solve the problem.

The Postal Service is, nevertheless, working to establish a fully cost-based terminal dues system, that is, a system to cover the specific costs of each delivering postal administration which agrees to participate in the new system, thus providing fair and equal reimbursement for delivery services regardless of where mail is entered in the new system by participating administrations. Fewer than thirty industrialized countries, however, have an interest in developing such a system. Although these countries have made progress in achieving consensus on the requirements for and operation of such a system, the problem of "unequal access" is likely to be exacerbated. The majority of countries which will continue to apply a simplified, lower-rate UPU system in all their mail exchanges will have more favorable access to the industrialized countries participating in the cost-based system than the industrialized countries will have with each other.

To permit a new country-specific cost-based system to operate equitably and without the unfair arbitrage experienced between the current cost-related system and the UPU terminal dues system would require a majority of the member countries of the Universal Postal Union to agree either to a global country-specific cost-based terminal dues system or to an interface or "bridge" arrangement between the simpler UPU terminal dues system and the country-specific cost-based system. In considering the difficulties of persuading the UPU of the market-influenced reasons for cost-based terminal dues, it should be noted that a majority of UPU member countries, many of which are developing countries, would lose significant terminal dues revenues under a country-specific cost-based system which would require payment of higher prices for delivery services to the industrialized countries and lower prices for the same services to approximately 160 other countries.

Despite the obstacles, the Postal Service is working toward the adoption at UPU Congress of proposals which, if approved, will significantly reduce the flaws in the current terminal dues system. Although the Postal Service is optimistic about the adoption of some of these proposals, it has only one of approximately 186 votes at UPU Congress and cannot guarantee the outcome.

Furthermore, the Postal Service is obligated to comply with the terms of the Acts of the Universal Postal Union currently in effect. Outside of the framework of these Acts, the Postal Service can negotiate other terminal dues arrangements only with the agreement of another country or group of countries; it cannot impose a particular cost-based terminal dues arrangement on other countries nor can it unilaterally impose a particular level of terminal dues on inbound international mail.

The UPU meets in Congress every five years, and the next opportunity to achieve the agreement necessary to implement an equitable and fully cost-based terminal dues system among the industrialized countries will arise at the Seoul Congress in late 1994. The Acts of the Universal Postal Union adopted at that Congress will take effect in 1996.

In the meantime, therefore, the application of the proposed rule is the only means of providing protection against the abuse of the current terminal dues system.

Administration of Proposed Rule

One commenter asserted that enforcement of the rule is bound to be arbitrary and capricious, that it cannot be strictly enforced without incurring excessive costs, and that, if selectively enforced, it would be enforced only against competitors of the Postal Service. The Postal Service disagrees with this assertion. The elimination of the criteria for determining resident status which relates to percentage of ownership will simplify enforcement activity. Although excessive costs might be incurred if one-hundred percent effectiveness were required, enforcement can still be undertaken in a sufficiently vigorous and cost-effective manner to maintain a credible deterrent to abuse of the system. Furthermore, the effort to distinguish so-called competitors from non-competitors engaged in efforts to evade fair payment of delivery costs would, even if it were possible, certainly lead to excessive administrative costs and be self-defeating. As the purpose of the rule is solely to assure fair and adequate reimbursement of delivery costs, there is no incentive to make such an effort.

One commenter asserts that there has been no independent verification that UPU terminal dues do not adequately compensate the Postal Service for its expense in delivering foreign-origin mail and that participation in a study of international costs and revenues by the Postal Rate Commission should be a prerequisite to implementing the proposed rule. The Postal Service disagrees. The Postal Service alone is responsible international mail services, and there is no legal requirement that its determinations be subject to verification by any other agency. The Postal Rate Commission, in particular, has no jurisdiction over international rates or services, so any study conducted by the Commission would have no legal significance. The Postal Service has concluded that the proposed rule, as amended, would benefit users of United States mail. No persuasive reason has been put forward why implementation of that rule should be deferred while an agency with no responsibility for international services conducts a cost study that would have no legal significance. Accordingly, the Postal Service will not defer implementation of the proposed rule.

One commenter asserts that the Postal Service has offered no data on the losses against which the proposed rule would provide protection and no support of the need for such a rulemaking. The assertion that the Postal Service has not attempted to precisely quantify all losses is correct as far as it goes. However, based upon mailings already found to be in violation of Subchapter 790 and upon the continuing nature of these activities, the Postal Service considers that it has an adequate basis for its estimate that it has already suffered significant losses and for its judgment that it will continue to incur such losses unless more effective remedial action is taken. Therefore, by giving the sender the option of either paying domestic postage to secure delivery or accepting their return to origin, such losses can be avoided or significantly reduced.

One commenter asserted that, under the proposed rule, the Postal Service could decide at its own discretion whether mail was of legitimate international origin or whether it should have been entered as domestic mail and that it could make such decisions without prior consultation with regulators, other postal administrations, or other administrative bodies. The Postal Service agrees that it will exercise its own discretion in implementing the proposed rule, but disagrees with any implication that this will be done in an arbitrary manner and without opportunity for consultation. The Postal Service considers the exercise of this responsibility to be fully consistent with its statutory authority and responsibility to assure that it is appropriately and adequately compensated for the costs of the services it provides. The purpose of the proposed rule is to provide senders and foreign postal administrations with information about Postal Service enforcement activities which will help assure that mailings comply with Postal Service regulations and are not subject to such decisions. It is the responsibility of the sender to be informed about these regulations and to comply with them. The elimination of the percentage of ownership criteria should simplify compliance with these Postal Service regulations. If the sender or a foreign postal administration remains uncertain about whether a mailing complies with Postal Service regulations, then it is the responsibility of the sender or the foreign postal administration to consult with the Postal Service in advance of the mailing. In any event, when the Postal Service determines that it is appropriate to apply the proposed rule, it will attempt to consult with the sender and to give the sender an opportunity to pay the required domestic postage or to explain why the mailing should be delivered without such payment. The sending administration will then also have an opportunity to comment on the

enforcement of the rule by the Postal Service.

One commenter asserts that the proposed rule is inconsistent with the policy of allowing outbound remail from the United States, that it would deny to foreign firms the opportunities for remail to the United States that the Postal Service allows to firms in the United States, that it does not take into account remailing opportunities to the United States "between countries not listed in Exhibit 792.1," that, if adopted by other countries, the rule would eliminate the possibility of sending "prepaid mailshots" from the country of choice of the sender, and that the proposed ruling would disturb the climate for establishing cost-based terminal dues. The Postal Service disagrees with these assertions, at least to the extent that they refer to mailings for which the country of destination will be adequately compensated for its delivery costs. It is true that the suspension of the Private Express Statutes for outbound international mail will permit private delivery services, including remail companies, to carry mail to other countries without Postal Service constraint. In such circumstances, however, the Postal Service itself incurs no costs and suffers no cost disadvantage. The purpose of the proposed rule is to provide protection only in those circumstances where the Postal Service does incur costs and would suffer a cost disadvantage. Furthermore, the fact that Postal Service has suspended its own Private Express Statutes with respect to outbound international mail does not mean that private delivery services or remail companies are not subject to the corresponding statutes of other countries or to the actions which other postal administrations may take to enforce Article 25 or to assure adequate compensation for the delivery of mail from senders in the United States sent indirectly by way of third countries providing access to the international mail system at below-cost postage rates. With respect to remail opportunities to the United States "between countries not listed in Exhibit 792.1," as long as the sender is a resident of such a country, the Postal Service suffers no cost disadvantage for such mailings. With respect to the threat to "prepaid mailshots" from the country of choice of the sender, there is no threat to "prepaid mailshots" as long as there has been no evasion of the payment to the delivering country of appropriate postage rates or terminal dues. With respect to the assertion that the proposed rule would disturb the climate for establishing cost-based terminal dues, the Postal Service is of the view that such a rule vigorously enforced will strengthen the incentive to adopt a cost-based terminal dues system in order to reduce the need for such enforcement activity.

One commenter suggested what he considered to be clarifying changes to sections 792.31 and 792.32 of the proposed rule, which explain that a mailing is "by or on behalf of a person or firm who resides in the United States" or "by or on behalf of a person or firm who resides in a country listed in Exhibit 792.1" where "such a person or firm seeks or expects to derive economic benefit or advantage from that mailing" in relation to activities or to "operations physically conducted" in the United States or in one of the countries listed in Exhibit 792.1. The commenter suggested the addition of "with respect to the cost of postage" after "if such a person seeks or expects to derive economic benefit or advantage from that mailing" to clarify that the economic benefit is with respect to the cost of the postage for the mailing and not because of the content of the mailing. The Postal Service has not adopted this suggestion because the "economic benefit or advantage" noted in § 792.31 and 792.32 refers to the gains which are the result of the addressees response to the mailings expected by the person or firm engaged in the mailing and not gain which result from avoiding the cost of postage.

The Postal Service adopts the following amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, international postal services.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Chapter 7 of the International Mail Manual is amended by revising section 790 to read as follows:

CHAPTER 7—TREATMENT OF INBOUND MAIL

* * * * *

790 Items Mailed Abroad by or on Behalf of Senders in the U.S. and Certain Other Countries.

791 Postage Payment Required.

Payment of United States postage is required to secure delivery of mail described in 792 under the following circumstances:

a. The mailing is by or on behalf of a person or firm that resides in the United States and the foreign rate of postage applied to such items is lower than the comparable United States domestic rate of postage, or 1000 or more such items are mailed in a 30 day period regardless of whether the foreign postage is lower than the comparable United States postage; or

b. The mailing is by or on behalf of a person or firm that resides in a country listed in Exhibit 792.1, is posted in a country not listed in Exhibit 792.1, and 1000 or more items are mailed in a 30 day period.

792 Mailings Affected.

792.1 Special Conditions. The special conditions apply to items of mail which are posted in foreign countries:

a. By or on behalf of persons or firms who reside in the United States; or

b. By or on behalf of persons or firms who reside in one of the countries listed in Exhibit 792.1.

792.2 Residency

792.21 Criteria for U.S. Residency. A firm is a resident of the United States if it meets the following criteria:

a. It has a place of business in the United States; or

b. It is incorporated or otherwise in the United States, its territories, or possessions.

792.22 Criteria for Countries Listed in Exhibit 792.1 A firm is a resident of a country listed in Exhibit 792.1 if it meets the following criteria:

a. It has its principal place of business in that country; or

b. It is incorporated or otherwise in that country, its territories or possessions.

792.3 By or on Behalf

792.31 United States Resident. A mailing is by or on behalf of a person or firm who resides in the United States if such a person or firm seeks or expects to derive economic benefit or advantage from that mailing.

792.32 Resident of a County Listed in Exhibit 972.1. A mailing is by or on behalf of a person or firm who resides in a country listed in Exhibit 792.1 if such a person or firm seeks or expects to derive economic benefit or advantage from that mailing related to operations physically conducted in any of those countries. These operations include, but are not limited to, selling goods manufactured in those countries and selling services provided in those countries.

792.4 Place of Business. A place of business in the United States is any location in the United States, its territories, or possessions where a firm's employees or agents regulatory have personal contact with other individuals for the purpose of conducting the firm's business. For the purposes of this section, a firm whose employees or agents have personal contact with others for the purpose of conducting the firm's business in different places in the United States for short periods of time, e.g., at hotels in different cities for one or two days at a time, has a place of business in the United States if the aggregate amount of time spent in the United States is 180 days or more during a one year period.

792.5 Agents. The use of a non-exclusive agent in the United States for the sole purposes of accepting orders and remissions for transmission to a firm in another country or of distributing merchandise manufactured in another country and shipped to the United States in bulk does not by itself constitute establishment of a place in the United States.

793 Advance Payment Required.

793.1 Sample of Envelope. Senders affected by 791 must submit a sample of the proposed mailing (envelope and contents) with (1) a statement as to the number of items to be mailed, (2) when and where the mailing will take place, and (3) a check, made payable to the U.S. Postal Service, to cover the amount of the applicable U.S. postage, to the:

Manager, Business Mail Acceptance, Customer Service and Sales, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–6808.

793.2 Headquarters Notification. Notification of postage acceptance and approval of the mailing will be given by Headquarters to the sender and to the appropriate U.S. receiving exchange office. This will permit the items in the mailing to go forward to the addresses without delay when the items reach the United States.

794 Treatment if Advance Payment Not Made.

794.1 Return or Disposal of Items. Items may be returned to origin or disposed of in accordance with postal regulations if U.S. postage is not paid.

794.2 Mailings Received Without Advance Payment. A mailing subject to 791 received without advance payment of U.S. domestic postage will be held at the receiving exchange office. The exchange office will report all such mailings to the:

Manager, Business Mail Acceptance, Customer Service and Sales, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–6808.

Reports must contain (1) title and/or nature of the items, (2) identity of sender, (3) number of items detained, (4) weight of a single item, (5) foreign postage paid per item, and (6) office of mailing. The exchange office will be advised to release the mail when the applicable postage has been paid.

795 Report of Mailings.

Any mail appearing to be subject to the conditions of this subchapter must be reported to Business Mail Acceptance, at USPS Headquarters, by the U.S. receiving exchange office.

Exhibit 792.1

Canada
Denmark
Finland
France
Germany
Great Britain and Northern Ireland
Iceland
Ireland
Italy
Luxembourg
Netherlands
Norway
Spain
Sweden

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 94–5428 Filed 3–9–94; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[IA–6–1–6244; FRL–4848–1]

Designation of Areas for Air Quality Planning Purposes; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action, pursuant to section 107(d) of the Clean Air Act ("the Act") to redesignate part of Muscatine County, Iowa, from attainment to nonattainment for sulfur dioxide (SO_2).

The result of this action is that the state of Iowa must submit an SO_2 implementation plan for the Muscatine nonattainment area to EPA, within 18 months after the effective date of this notice, that meets the requirements of part D, Title I of the Act. (See section 191(a) of the Act.)

EFFECTIVE DATE: This rule will become effective April 11, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: EPA is authorized to initiate the redesignation of additional areas (or portions thereof) as nonattainment for SO_2, pursuant to section 107(d)(3) of the Act, on the basis of air quality data, planning and control considerations, or any other air quality related considerations the Administrator deems appropriate. As explained in the notice proposing the redesignation (58 FR 44639), section 107(d)(3) outlines a procedure to be followed for redesignations. EPA believes that the redesignation, promulgated with this notice, is appropriate and necessary to ensuring timely attainment and maintenance of the SO_2 ambient air quality standard in the Muscatine area. Violations of the SO_2 standard occurred in both 1991 and 1992. EPA believes that the area redesignated as nonattainment by this notice satisfies the applicable criteria.

Section 107(d)(1)(A) sets out definitions of nonattainment, attainment, and unclassifiable. These definitions provide the controlling legal standard for any designations or redesignations to the relevant attainment status. A nonattainment area is defined as any area that does not meet, or that significantly contributes to, ambient air quality in a nearby area that does not meet the national primary or secondary ambient air quality standard for the relevant pollutant. (See section 107(d)(1)(A)(i).) EPA believes that reasonably reliable techniques, including monitoring and/or modeling information, may be used both in determining the designation appropriate for an area and in establishing SO_2 nonattainment boundaries that are consistent with section 107(d)(1)(A)(i) of the Act. Thus, in determining the appropriate boundaries for the nonattainment area, EPA has considered using the appropriate monitoring data and modeling information not only in the area where the violations of the SO_2 National Ambient Air Quality Standards (NAAQS) are occurring, but in nearby areas which may significantly contribute to such violations.

On August 24, 1993, EPA published a notice in the **Federal Register** (54 FR 44639) proposing that an area in Muscatine County, Iowa, be redesignated to nonattainment for SO_2. A minor correction to the description of the proposed nonattainment area was

published on September 23, 1993 (54 FR 49467), and a notice reopening the comment period until November 26, 1993, was published on November 5, 1993 (54 FR 58999). Additional information regarding the proposed action and this final action is contained in the docket maintained at the EPA Regional Office located at the address above.

Response to Comments

Comments were received from three affected sources located within the proposed nonattainment area and from the Governor of Iowa. The comments are addressed extensively in the Technical Support Document (TSD) contained in the docket for this notice.

All commenters took issue with EPA's proposed action. The comments centered around the validity of the monitoring data, the description of the nonattainment area, and the need for the action given intentions by the sources to reduce their SO_2 emissions.

Two major source commenters questioned the validity of the monitoring data at the Musser Park monitor, where the violations were recorded, on the days of exceedances in 1991. A review of the monitoring station information for those days revealed that the air conditioner failed in the monitoring station on or before June 25, 1991. This resulted in higher than normal ambient temperatures in the monitoring station on June 25 and part of June 26, 1991, when the air conditioner was replaced. High temperatures may have affected the performance of the monitor on June 26, 1991. Therefore, EPA has decided to discount the exceedance which occurred on that date. Additional data review, however, confirmed that the exceedances which occurred on June 27 and July 20, 1991, were valid, and thus there was one measured violation of the SO_2 NAAQS in 1991.

Two commenters stated the EPA's notice to the Governor, required pursuant to section 107(d)(3) which was based on the 1991 violations and sent to the Governor on November 29, 1991, is invalid because no violations occurred in 1991. However, as stated above, at least one violation did occur in 1991. Therefore, the basis for this comment is incorrect. In addition, as explained in detail in the TSD, valid measured data from 1992 show at least one violation in that year. Even if the 1991 data had been shown to be invalid, EPA is not required to restart the process with another letter to the Governor in order to designate the area nonattainment.

One commenter questioned the siting of the Musser Park monitor. As explained in detail in the TSD, EPA review confirmed that the siting of the monitor is consistent with the EPA siting criteria specified in 40 CFR part 58, appendix E.

One commenter questioned using modeling to establish the boundaries of the nonattainment area, stating that modeling subsequently performed by the commenter did not validate the monitoring data on the days of exceedances at the Musser Park monitor, and, thus, use of the model by EPA to establish the nonattainment area is unjustified.

EPA is basing its nonattainment designation on ambient monitoring data, its description of the nonattainment area on monitoring data, and, to a lesser extent, modeling data. The contention by the commenter that modeling data are not consistent with monitoring data at the Musser Park location does not negate EPA's use of modeling data to help define the boundaries of the nonattainment area. EPA policy permits wide discretion in determining the boundaries of nonattainment areas, including the use of political boundaries. In this case, EPA used modeling data to narrow the nonattainment area to an area that encompassed both monitored and modeled nonattainment areas and major SO_2 sources.

The three major source SO_2 commenters, as well as the Governor of Iowa, stated that redesignation to nonattainment was unnecessary since the major SO_2 sources were working with the state to reduce emissions. EPA is aware of the ongoing efforts in this regard, but notes it has been over two years since the first monitored violation of the NAAQS and over one year since the second violation, yet there have been no federally enforceable emission limitations established to reduce SO_2 emissions in the Muscatine area. Furthermore, administrative orders recently issued by the state to the three major SO_2 sources in the Muscatine area have been appealed.

EPA has a responsibility to not only ensure that air quality problems are addressed thoroughly and expeditiously, but to require contingency measures and maintenance plans to ensure continued attainment of the NAAQS. The nonattainment designation promulgated today will lead to development of these necessary requirements to protect air quality in the Muscatine area.

The final comment was that a nonattainment designation would result in economic hardship on the sources and the community. This is a factor that may be considered by the state in developing and implementing a control strategy, but is not a factor to be considered by EPA in its nonattainment designation decision. EPA does not believe that it is appropriate to consider such factors in light of the criteria for redesignations pursuant to section 107(d)(3) of the Act, which relates to air quality considerations.

In summary, EPA believes that a nonattainment designation, for the area described in the corrected **Federal Register** notice of September 23, 1993, pursuant to section 107 of the Act, is appropriate and necessary to ensure timely attainment and maintenance of the air quality standards in the Muscatine area.

Areas designated nonattainment are subject to the provisions of sections 107, 176(c), and part D of the Act. From the effective date of this notice, the state will have 18 months to submit a revised State Implementation Plan (SIP) which contains measures that provide for attainment of the area within five years.

Within 12 months of this nonattainment designation, the state must submit a revision to the SIP which addresses the requirements of the general conformity rule (58 FR 63214). The general conformity requirements established by 40 CFR parts 51 and 91 apply to the nonattainment area until the state's general conformity SIP revision is approved by EPA.

EPA Action

EPA is designating part of Muscatine County, Iowa, as nonattainment for SO_2 in accordance with the section 107(d)(3) redesignation process described above. The nonattainment area is described as follows: T 77 N, R 2 W, Sections 26, 27, 34, 35; and T 76 N, R 2 W, Sections 2, 3, 10, 11, 14, 15, 22, 27, 28, 33, 34, Muscatine County, Iowa. 40 CFR 81.316 is being revised accordingly.

Redesignation of an area to nonattainment under section 107(d)(3)(E) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. To the extent that the state must adopt new regulations, based on an area's nonattainment status, EPA will review the effect of those actions on small entities at the time the state submits those regulations. Thus, EPA certifies that this redesignation will not affect a substantial number of small entities.

This action has been classified as a table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). A

revision to the SIP processing review tables was approved by the Acting Assistant Administrator for Office of Air and Radiation on October 4, 1993 (Michael Shapiro's memorandum to Regional Administrators). A future notice will inform the general public of these tables. Under the revised tables this action remains classified as a table 2. On January 6, 1989, the Office of Management and Budget (OMB) waived table 2 and table 3 SIP revisions (54 FR 2222) from the requirement of section 3 of Executive Order 12291 for two years. EPA has submitted a request for a permanent waiver for table 2 and table 3 SIP revisions. OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 9, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 1, 1994.

Dennis Grams,

Regional Administrator.

Part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.316 is amended by revising the "Iowa—SO_2" table to read as follows:

§ 81.316 Iowa.

* * * * *

IOWA—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Muscatine County:				
Area within T 77 N, R 2 W, sections 26, 27, 34, 35: and T 76 N, R 2 W, sections 2, 3, 10, 11, 14, 15, 22, 27, 28, 33, 34	x			
Remainder of county				x
Remainder of state				x

* * * * *

[FR Doc. 94–5626 Filed 3–9–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7031

[AZ–930–4210–06; AZA–26088, AZA–26089, AZA–26099]

Withdrawal of National Forest System Lands for a Recreation Complex, an Administrative Site, and a Research Ranch; AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 3,117.77 acres of National Forest System lands from mining for 20 years to protect significant capital improvements and recreational and research values associated with the Parker Canyon Lake Recreation Complex, the Carr Barn Administrative Site and the Research Ranch. The lands have been and will remain open to mineral leasing and surface uses authorized by the Forest Service.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602–650–0509.

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 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System lands are hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the capital investments and the recreational and research values of the Parker Canyon Lake Recreation Complex, the Carr Barn Administrative Site, and the Research Ranch:

Gila and Salt River Meridian

Coronado National Forest

Research Ranch

T. 21 S., R. 18 E.,
Sec. 26, W½, and W½E½;
Sec. 33, E½NE¼, and NE¼SE¼;
Sec. 34;
Sec. 35, lot 6, W½, W½NE¼, NW¼SE¼NE¼, W½SW¼SE¼NE¼, NW¼NW¼SE¼, and N½SW¼SW¼SE¼.
T. 22 S., R. 18 E.,
Sec. 2, lots 2, 3, and 4, N½SW¼, NW¼SE¼, SW¼NE¼, and S½NW¼;
Sec. 3, lots 1 to 4, inclusive, S½N½, N½N½SE¼, and N½NE¼SW¼;
Sec. 4, lot 5, and SE¼NE¼NE¼.

The areas described aggregate 2,442.04 acres in Santa Cruz County.

Parker Canyon Lake Recreation Complex

T. 23 S., R. 19 E.,
Sec. 18, lots 1, 2, and lots 4 to 7, inclusive and lot 9, SW¼NE¼, E½NW¼, W½NE¼SE¼, W½E½NE¼SE¼, and that portion lying within Homestead Entry Survey 291;
Sec. 19, lots 1, 2, and 3, NE¼NE¼, and that portion lying within Homestead Entry Survey 291.

The area described contains 665.73 acres in Cochise County.

Carr Barn Administrative Site

T. 23 S., R. 21 E.,
Sec. 7, SE¼NE¼NW¼.

The area described contains 10 acres in Cochise County.

2. The withdrawal made by this order does not alter the applicability of those land laws governing the use of the National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will 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) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: February 28, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–5467 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–32–P

43 CFR Public Land Order 7032

[AK–932–4210–06; F–90576]

Withdrawal of Public Land for Protection of the Paleoindian Site Known as Mesa Site; AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 2,560 acres of public land from settlement, sale, location, or entry under the general land laws, and from location and entry under the United States mining laws, but not from mineral leasing, for a period of 20 years for the Bureau of Land Management to protect the archaeological, historical, and cultural resource integrity of the Paleoindian site known as Mesa Site.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

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 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect a Paleoindian site:

Umiat Meridian

T. 12 S., R. 17 W., (Unsurveyed)
Secs. 11 to 14, inclusive.

The area described contains approximately 2,560 acres.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will 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) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: February 28, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–5466 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–JA–M

43 CFR Public Land Order 7033

[AK–932–4210–06; F–030474]

Partial Revocation of Powersite Classification No. 443, as Modified, for Selection of Land by the State of Alaska; AK

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Powersite Classification, insofar as it effects approximately 25,634 acres of land withdrawn for power purposes at Teklanika River. The land is no longer needed for the purpose for which it was withdrawn. This action also opens approximately 19,734 acres of land for selection by the State of Alaska, if such land is otherwise available. Any land described herein that is not conveyed to the State will be subject to the terms and conditions of any withdrawal of record. The remaining approximate 5,900 acres of land will continue to be withdrawn as part of the Denali National Park and Preserve pursuant to the Alaska National Interest Lands Conservation Act.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–17–5477.

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 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act 43 U.S.C. 1616(d)(1)(1988), it is ordered as follows:

1. Powersite Classification No. 443, as modified, which withdrew land for power purposes in the Teklanika River area, is hereby revoked insofar as it affects the following described land:

Fairbanks Meridian

Beginning at a point on the Teklanika River latitude 63°58′08″ N., longitude 149°31′48″ W. All lands upstream from this point below the 2,000 foot contour located in:

a. Those portions of Tps. 12 and 13 S., Rs. 9 and 10 W., (surveyed), which lie outside of the Denali National Park and Preserve. The area described contains approximately 19,734 acres.

b. Those portions of Tps. 11 S., Rs. 9, 10, and 11 W.; and Tp. 13 S., R. 10 W., (partially surveyed), which lie within the Denali National Park and Preserve.

The area described contains approximately 5,900 acres.

The total area described contains approximately 25,634 acres.

2. Subject to valid existing rights, the land described in section 1(a) above is hereby opened for selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1988) or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b)(1988).

3. The State of Alaska applications for selection made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e)(1988), for the land described in 1(a) above, become effective without further action by the State upon publication of the public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State will be subject to the terms and conditions of any withdrawal of record.

4. The land described in paragraph 1(b) above will remain withdrawn as part of the Denali National Park and Preserve, pursuant to Section 206 of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 410(hh–5)(1988).

Dated: March 2, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–5586 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–JA–M

DEPARTMENT OF ENERGY

48 CFR Part 903

RIN 1991–AB10

Acquisition Regulation: Procurement Integrity

AGENCY: Department of Energy (DOE).

ACTION: Final rule; technical amendments.

SUMMARY: DOE is amending the Department of Energy Acquisition Regulation (DEAR) to implement the requirements of the Federal Acquisition Regulation (FAR) to identify the individuals responsible for concurring in the contracting officer's decision regarding the impact of a violation, or possible violation, of the procurement integrity requirements occurring during the conduct of a procurement. This rule falls under the exceptions stated in the Administrative Procedure Act to the proposed rulemaking and public procedure requirements. These changes are all technical and administrative in nature, and none of them raises substantive issues.

EFFECTIVE DATE: This rule will be effective on May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Kevin M. Smith, Office of Policy (HR–521.1), Office of Procurement and Assistance Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–8189.

SUPPLEMENTARY INFORMATION:

I. Background.
A. Discussion
B. Section-by-Section Analysis
II. Procedural Requirements.
A. Review Under Executive Order 12866
B. Review Under Executive Order 12778
C. Review Under the Regulatory Flexibility Act
D. Review Under the Paperwork Reduction Act
E. Review Under Executive Order 12612
F. National Environmental Policy Act

I. Background

A. Discussion

DOE is amending the DEAR to implement the requirements of FAR 3.104–11(a) concerning the identification of the individuals within DOE responsible for concurring in the contracting officer's decision regarding the impact of a violation, or possible violation, of the procurement integrity requirements occurring during the conduct of a procurement. The specific amendments to the DEAR are described below.

B. Section-by-Section Analysis

The procedures contained in FAR 3.104–11(a)(1) require a contracting officer who has information concerning any violation, or possible violation, of the procurement integrity statute and regulations and who concludes that the violation or possible violation has no impact on the award of the contract or modification to submit this conclusion to an individual within the agency for concurrence. Under FAR 3.104–11(a)(2), that individual is also responsible for notifying the Head of the Contracting Activity, or his or her designee, if that individual does not concur in the contracting officer's conclusion with respect to the impact of the violation or possible violation. The FAR directs that such an individual be designated in accordance with agency procedures.

Under this rulemaking, Subpart 903.1, entitled "Safeguards," will be amended to add a new section 903.104–11(a) to implement FAR 3.104–11(a) by identifying the responsible individual. Within DOE, except for Headquarters activities, the individual designated to perform the responsibilities set forth in FAR 3.104–11(a)(1) and (2) is the legal counsel assigned direct responsibility for providing legal advice to the contracting office making the award of the contract or modification. For Headquarters activities, the individual designated to perform the responsibilities set forth in FAR 3.104–11(a)(1) and (2) concerning questions of disclosure of proprietary or source selection information and certification matters is the Assistant General Counsel for Procurement and Financial Assistance. The designated individual for other questions concerning FAR 3.104–11(a)(1) and (2) for Headquarters activities is the Assistant General Counsel for General Law (Designated Agency Ethics Official).

II. Procedural Requirements

A. Review Under Executive Order 12866

The Department of Energy has determined that today's regulatory action is not a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," (58 FR 51735, October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and 2(b), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's rule meets the requirements of sections 2(a) and 2(b) of Executive Order 12778.

C. Review Under the Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any proposed rule which is likely to have a significant economic impact on a substantial number of small entities. This rule will have no impact on interest rates, tax policies or liabilities, the cost of goods or services, or other direct economic factors. It will also not have any indirect economic consequences, such as changed construction rates. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

E. Review Under Executive Order 12612

Executive Order 12612, entitled "Federalism," 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on states, on the relationship between the Federal Government and the states, or in the distribution of power and responsibilities among various levels of government.

If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and

implementing a policy action. This rule will not affect states. It deals with relations between Federal agencies.

F. National Environmental Policy Act

DOE has concluded that this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, *et seq.*) (1976) or the Council on Environmental Quality Regulations (40 CFR parts 1500–1508) and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

List of Subjects in 48 CFR Part 903

Government procurement.

Issued in Washington, DC on March 2, 1994.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set out in the preamble, chapter 9 of title 48 of the Code of Federal Regulations is amended as set forth below:

PART 903–IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1. The authority citation for Part 903 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

2. Subpart 903.1, Safeguards, is amended by adding a new section 903.104–11 to read as follows:

903.104–11 Processing violations or possible violations under procurement integrity.

(a) Except for Headquarters activities, the individual within DOE responsible for fulfilling the requirements of (FAR) 48 CFR 3.104–11(a) (1) and (2) relative to contracting officer conclusions on the impact of a violation or possible violation of the procurement integrity requirements shall be the legal counsel assigned direct responsibility for providing legal advice to the contracting office making the award or selecting the source. The legal counsel is the Chief Counsel for the Operations Offices or the Energy Technology Centers; the Counsel, or the Chief Counsel, for the Support Offices or the Naval Reactors Offices; and the General Counsel for the Power Administrations. For Headquarters activities, the individual designated to perform the responsibilities in (FAR) 48 CFR 3.104–11(a) (1) and (2) regarding questions of disclosure of proprietary or source selection information and certification matters is the Assistant General Counsel for Procurement and Financial Assistance. The designated individual for other questions regarding (FAR) 48 CFR 3.104–11(a) (1) and (2) for Headquarters activities is the Assistant General Counsel for General Law (Designated Agency Ethics Official).

[FR Doc. 94–5437 Filed 3–9–94; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1807, 1815, 1852, and 1870

Acquisition Streamlining Techniques

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This notice amends the NASA FAR Supplement to incorporate a number of techniques that will streamline the acquisition planning and competitive source selection processes.

EFFECTIVE DATE: March 31, 1994.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, NASA Headquarters, Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546. Telephone: (202) 358–0478.

SUPPLEMENTARY INFORMATION:

Background

On November 22, 1993, an interim rule to amend the NASA FAR Supplement to streamline the acquisition planning and competitive source selection processes was published in the **Federal Register** for comment (58 FR 61629–61634). Public comments on the interim rule suggested NASA consider revising its policy to address several issues.

The first of these issues concerns the statement in section 1807.103(b)(4) that approval of a procurement plan does not constitute approval of any special conditions or special clauses that may be required unless the plan so specifies and the individual having approval authority is a signatory of the plan. The comment suggests that this approach is of questionable value and recommends that the interim rule be changed to indicate that procurement plans should only be approved by the level that has authority to grant approval to all aspects of the plan.

The policy in the interim rule allows a single document—the procurement plan—to accommodate the approval of special requirements that would normally be processed separately, thereby preventing duplicative effort. NASA believes that this technique is an effective streamlining tool. On the other hand, the public comment recommendation would be counter productive in that it would raise approval of the procurement plan to the highest levels when it is unnecessary to do so. For example, economic price adjustment (EPA) clauses require the approval of NASA Headquarters. If the public comment recommendation were adopted, the entire procurement plan would need to be approved at the Headquarters level rather than just the EPA clause. Under the NASA procedure, the procurement plan would be approved at the lowest appropriate level at the field installation, and only the EPA clause need be submitted for Headquarters approval. NASA does not believe the recommended change is appropriate.

The second issue raised in the public comments concerns the proposal page limitations imposed by the interim rule. The comment noted that section 1815.406(d) does not address whether proposal attachments are included in the page limitations and suggested that the interim rule be changed to exclude attachments such as key personnel resumes and management plans. If these exceptions were not made, the comment argues that NASA would be forced to generate questions during the discussions phase to obtain the information that could not be accommodated by the page limitations.

We do not believe that the public comment recommendation will contribute to streamlining acquisitions. The intent of the page limitation initiative is to streamline the acquisition process by focusing the attention of both the Government and prospective offerors on the key discriminators upon which selection will be based. Once so focused, solicitation requirements can be concisely articulated and proposals can be constructed in a like manner. Furthermore, with less material to evaluate, fewer resources need be committed to the evaluation process. These benefits can be achieved without degradation of the integrity, fairness, or thoroughness of the procurement process.

Section 1815.406(d) lists the specific elements of a proposal that are excluded from the proposal page limitations (title pages, tables of content, and cost/price information). Attachments to the proposal are not included in this list because they are intentionally subject to the page limitations. If they were not, and large sections of a proposal were

excluded from the page limitations, the benefits of this initiative would be largely dissipated.

In addition, the public comment assertion that the Government would generate questions during the discussion phase to obtain information that could not be included in the proposal because the page limitations is speculative at best. Consequently, NASA does not believe a change is appropriate in this instance.

The third issue raised in the public comments addresses the statement in section 1807.170–4(a) that approved Acquisition Strategy Meeting (ASM) minutes satisfy the requirement of a formal procurement plan. The comment expressed concern that the interim rule does not ensure that an ASM will address all the issues required of a procurement plan and recommended that the interim rule be changed to ensure this happens.

This recommended revision is unnecessary since adequate coverage is already in the interim rule. Section 1807.170–4(e) requires that "ASMs, whether held at Headquarters or field installations, shall address the mandatory procurement plan topics specified in 1807.170".

The fourth issue identified in the public comments concerns the accuracy of the statement in section 1815.613–71(b)(4)(i) that cost is "neither scored nor ranked". The public comment suggests that cost is always ranked.

Under NASA's long-standing source selection procedures, four evaluation factors are used. Mission suitability is scored both numerically and assessed an adjectival ranking. Past Performance and Other Considerations are both ranked adjectivally but neither is given a numerical score. Cost, the fourth factor, is neither scored numerically nor ranked adjectivally.

The NASA system is rooted in the best value concept in which selection decisions are made after performing informed trade-offs between most probable cost and the evaluation of the non-cost evaluation factors. Under this system, "ranking" cost is not meaningful. Both numerical evaluations and adjectival ratings are inappropriate, and the relative standing of offerors' evaluated costs in itself has no utility. Accordingly, NASA does not believe a change to indicate that cost is "ranked" is appropriate. However, we are making an editorial change in the final rule to clarify that cost is "neither scored numerically nor ranked adjectivally."

The fifth issue addressed in the public comment is the NASA alternative scoring method described in section 1815.613–71(b)(ii). The comment objects to this policy on the grounds that it deprives the Source Selection Official (SSO) from learning the extent of an offeror's improvement from its initial proposal to its BAFO and that it increases the potential for technical leveling and technical transfusion.

NASA believes that both of the concerns are unfounded. The alternative scoring method requires the identification of strengths and weaknesses of initial proposals, and the Source Evaluation Board (SEB) always presents to the SSO the strengths and weaknesses of both an offeror's initial proposal and its BAFO. Clear traceability between the two is provided and the SSO had full visibility into any improvement (or degradation) of an offeror's proposal during the course of the evaluation. Also, the nature and conduct of written or oral discussions is the same under the alternative scoring method as under the standard method. Either way, under the NASA system of limited discussions, technical leveling and technical transfusion are virtually eliminated. No changes to the interim rule are necessary in this area.

The last issue raised in the public comments questions the statement in section 1815.613–71(b)(4)(iv) that the competitive range may be further narrowed as a result of written or oral discussions.

NASA's policy is that the competitive range consists of all proposals with a reasonable chance of award. Where there is doubt about whether a proposal should be included in the competitive range, it is resolved by including it. If a proposal is included in the competitive range under the latter circumstances, and the written or oral discussions resolve the doubtful issues by clarifying that the proposal should not have been included in the competitive range, the proposal may be eliminated at that point. This procedure is already described in section 1815.613–71(b)(4)(iv), and no change to the interim rule is necessary.

NASA is adopting as a final rule the text set out in the interim rule with minor changes to parts 1815, 1852, and 1870 that have no significant effect on the substance of the interim rule. These changes either correct errata and inconsistencies or provide further clarification of the published interim rule. No changes are made to part 1807.

Impact

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. *et seq.*). This rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1807, 1815, 1852, 1870

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1807, 1815, 1852, and 1870 are amended as follows:

1. The authority citation for 48 CFR parts, 1815, 1852, and 1870 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1815—CONTRACTING BY NEGOTIATION

1815.406 [Amended]

2. Section 1815.406 is amended by revising the fourth sentence of paragraph (c) to read as follows:

1815.406 Preparing requests for proposals (RFP's) and requests for quotations (RFQ's).

* * * * *

(c) * * * In determining page counts, a page is defined as one side of a sheet, 8½" × 11", with at least one inch margins on all sides, using not smaller than 12 characters per inch or equivalent type. * * *

* * * * *

1815.613–71 [Amended]

3. Section 1815.613–71 is amended by revising the fourth sentence of paragraph (b)(4)(i) to read as follows:

1815.613–71 Evaluation and negotiation of procurements conducted in accordance with source evaluation board (SEB) procedures.

* * * * *

(b) * * *

(4) * * *

(i) * * * This evaluation will be fully documented, including scoring or ranking proposals in accordance with the numerical and adjectival standards identified in the RFP and this handbook, except cost which is neither scored numerically nor ranked adjectivally. * * *

* * * * *

4. Section 1815.613–71 is amended by revising the parenthetical reference "(e.g., two or three)" in the third sentence of paragraph (b)(4)(ii) to read "(e.g., five or fewer)".

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1852.215–81 [Amended]

5. In section 1852.215–81, the reference "(October 1993)" after the

clause title is revised to read "(January 1994)", and the first sentence of paragraph (b) is revised to read as follows:

1852.215–81 Proposal Page Limitations.

* * * * *

(b) A page is defined as one side of a sheet, 8½" × 11", with at least one inch margins on all sides, using not smaller than 12 characters per inch (or equivalent) type. * * *

* * * * *

PART 1870—NASA SUPPLEMENTARY REGULATIONS

1870.303 Appendix I—[Amended]

6. In section 1870.303, Appendix I, chapter 4, paragraph 404 is amended by revising the third sentence of paragraph 2.m. to read as follows:

Appendix I to 1870.303, NASA Source Evaluation Board Procedures (Handbook)

* * * * *

CHAPTER 4—SEB OPERATING PROCEDURES FOR SOLICITATION AND EVALUATION

* * * * *

404 Request for Proposals (RFPs)—Review and Approval

* * * * *

2. * * *

m. * * * Firm page limitations shall also be established for BAFOs, if requested. * * *

* * * * *

7. In section 1870.303, appendix I, chapter 4, paragraph 407.6.d is amended by revising the parenthetical reference "(e.g., two or three)" in the second sentence to read "(e.g., five or fewer)" and by removing the language "and complete" in the last sentence.

[FR Doc. 94–5143 Filed 3–9–94; 8:45 am]

BILLING CODE 7510–01–M

48 CFR Part 1807

Procurement Plan Contents Regarding Strategies to Encourage Cost Realism

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: NASA has revised the NASA FAR Supplement to address how cost realism will be included in procurement plans. Procurement plans should included how the offeror will be advised of the importance of cost realism, how cost realism will factor into the evaluation and selection decision, how cost realism will be monitored, and how incentives will be offered through contract provisions.

DATES: *Effective Date:* This interim rule is effective March 31, 1994. *Comments:* Comments are due no later than May 9, 1994.

ADDRESSES: Comments should be addressed to Ms. Deborah O'Neill, NASA Headquarters, Office or Procurement, Procurement Policy Division (Code HP), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah O'Neill, telephone: (202) 358–0440.

SUPPLEMENTARY INFORMATION:

Background

Submission by competing proposers of unrealistically low estimated costs in proposals is a common occurrence in acquisitions where cost is a factor in the selection decision. Proposers may hope to gain selection over others by submitting cost proposals which are unrealistically low. This results in probable cost adjustments being made, during the source selection process, to the offeror's proposal based on assumptions by the Government which may or may not be totally accurate. The probable cost estimate is included in the report to the Source Selection Official for consideration in making a selection decision. Subsequently, selected proposals are negotiated upward based upon the cost adjustments, or else cost overruns are experienced on the ensuing contracts. The additional guidance on procurement plan preparation is provided to encourage NASA acquisition planners to address efforts to promote the submission of realistic cost proposals.

Availability of NASA FAR Supplement

The NASA FAR Supplement, of which this proposed coverage will become a part, is codified in 48 CFR, chapter 18, and is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Cite GPO Subscription Stock Number 933–003–00000–1. It is not distributed to the public, wither in whole or in part, directly by NASA.

Regulatory Flexibility Act

NASA certifies that this interim rule will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.).

Paperwork Reduction Act

This interim rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR 1807

Government procurement.

Thomas S. Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR part 1807 is amended as follows:

1. The authority citation for 48 CFR part 1807 continues to read as follows:

Authority: 42 U.S.C. 2373 (c)(1).

PART 1807—ACQUISITION PLANNING

1807.170–1 [Amended]

2. In section 1807.170–1, paragraph (d)(4) is added to read as follows:

1807.170–1 Procurement plans requiring approval by NASA Headquarters.

* * * * *

(d) * * *

(4) *Cost realism.* To promote the submission of realistic cost proposals, discuss the following factors—

(i) How the offeror will be advised of the importance of cost realism (e.g., address cost realism in solicitation provisions);

(ii) How cost realism will factor into the evaluation and selection decision (e.g., include cost realism in evaluation factors and evaluation plan (reduce mission suitability scores));

(iii) How cost realism will be monitored and how incentives will be offered through contract provisions (e.g., recognize cost realism in award fee provisions).

[FR Doc. 94–5145 Filed 3–9–94; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 84]

RIN 2127–AF15

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; Response to petitions for reconsideration.

SUMMARY: On September 2, 1993, NHTSA published a final rule specifying that manufacturers must install air bags to satisfy automatic crash protection requirements. The final rule also required that labels bearing specified information be placed in vehicles equipped with air bags and that additional, more detailed information about air bags be provided in the owner's manual.

In response to two petitions for reconsideration, NHTSA is amending the labeling requirements to allow a consumer information label regarding utility vehicles to continue to be placed on the sun visor. In addition, in response to three requests for interpretation, NHTSA is amending the labeling to clarify that the air bag maintenance label can be combined with the air bag warning and to allow the use of either the word "Caution" or the word "Warning" at the beginning of the air bag warning label. Finally, this notice explains that translations of the labels are permitted as long as the required English language versions are provided.

DATES: *Effective Date:* The amendments made in this rule are effective March 1, 1994. *Compliance dates*: Mandatory air bag requirements: See the Compliance Dates section at the beginning of the "Supplementary Information" section of the final rule (58 FR 46551; September 2, 1993). Vehicle label requirements: September 1, 1994. Owner's manual requirements: March 1, 1994.

Petitions for reconsideration: Any petitions for reconsideration must be received by NHTSA no later than April 11, 1994.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, Chief, Frontal Crash Protection Division, Office of Vehicle Safety Standards, NRM–12, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–2264.

SUPPLEMENTARY INFORMATION: On September 2, 1993, NHTSA published a final rule specifying that manufacturers must install air bags to satisfy automatic crash protection requirements. The final rule also required that labels bearing specified information be placed in vehicles equipped with air bags and that additional, more detailed information about air bags be provided in the owner's manual.

General Motors Corporation (GM) and Ford Motor Company (Ford) submitted petitions for reconsideration of the September 2 final rule. Volkswagen of America, Inc. (VW), Nissan Research and Development, Inc. (Nissan), and American Suzuki Motor Corporation (Suzuki) wrote to the agency requesting clarification of certain aspects of the September 2 final rule. All of the issues raised by the petitions and the letters concern the labeling requirements of the September 2 final rule. A discussion of each issue and the agency's response follows.

Utility Vehicle Label

The September 2 final rule required various types of labels concerning air bags to be placed on the sun visor. Section S4.5.1(b)(2) of Standard No. 208, as amended by the September 2 final rule, states: Except for an air bag alert label placed on the visor pursuant to S4.5.1(c) of this standard, no other information about air bags or the need to wear seat belts shall appear anywhere on the sun visor.

Both GM and Ford petitioned the agency to amend S4.5.1(b)(2) of Standard No. 208 to permit the utility vehicle label on the sun visor. Since September 1, 1984, utility vehicles with a wheel-base of 110 inches or less have been required to be labeled with information to inform drivers that the handling and maneuvering characteristics of those vehicles require special driving practices (49 CFR part 575.105). Included in the language required by § 575.105(c)(1) is the statement "WEAR YOUR SEATBELTS AT ALL TIMES." The label is required to be affixed to one of several locations in the vehicle interior, including the driver's side sun visor.

Ford also stated that it voluntarily affixes the utility vehicle label on some vehicles with wheel-bases larger than 110 inches, and requested that S4.5.1(b)(2) permit the utility vehicle label in those instances also. This issue was also raised by Suzuki and Nissan.

The prohibition against other air bag or seat belt information on the sun visor in the final rule was intended to prevent "information overload" regarding air bags and seat belts. Additional information could blunt the impact of the required information. The main emphasis of the utility vehicle label is the possibility of rollover. Further, the required statement concerning belt use is incidental to that message. Finally, in view of the similarity of the statements about seat belt use in the utility vehicle label and air bag labels, the former label poses no threat of information overload about belt use. Therefore, NHTSA is amending the final rule to allow the installation of a utility label that contains the language required by 49 CFR 575.105(c)(1).

Dual Language Label

The September 2 final rule specified requirements for three air bag labels: A maintenance label, a warning label, and an alert label. Section S4.5.1(a) requires the air bag maintenance label to be in English. The specific wording which must be on the air bag warning label and the air bag alert label is specified in S4.5.1(b)(1) and S4.5.1(c) respectively. Section S4.5.1(b)(2) prohibited any "other information" on the same side of the sun visor as the air bag warning label and prohibited any "other information about air bags or the need to wear seat belts" on the sun visor.

VW requested an interpretation of the labeling requirements to allow dual language labels. VW stated that Canada requires these labels, if provided, to be in both English and French. VW stated that manufacturers would be able to produce vehicles at lower cost if one label could be used for vehicles sold in both countries. Nissan also asked whether French translations were allowed on the labels.

As explained above, section S4.5.1(a) requires the air bag maintenance label to be "in English." The air bag warning label and air bag alert label are not expressly required to be in English. However, S4.5.1(b)(1) and S4.5.1(c) do expressly require that those labels read as specified in the standard. For each label, those provisions specify, in English, the exact wording of a required message.

The agency addressed a related matter in a May 24, 1993 letter to Mr. Steve Flint of Century Products Co. In that letter, the agency determined that Spanish and French versions of the registration form required by Standard No. 213 were permitted, "as long as the English form complies with S5.8 and does not bear any information or writing beyond that required to be on the form * * * if the information * * * is presented in a manner that is not likely to confuse consumers in this country about the meaning of the English form or the importance of owner registration."

NHTSA interprets the labeling requirements of the September 2 final rule as requiring manufacturers to supply the information in English. Once this requirement is met, manufacturers may supply the same information in other languages, so long as it does not confuse consumers. As long as the non-English language label is a translation of the required information, NHTSA does

not interpret it to be "other information." However, manufacturers are not permitted to include additional information in the non-English label.

NHTSA intends to monitor the provision of foreign language translations of the English language label on the sun visor. NHTSA would initiate corrective rulemaking in the future if it appeared that the presence of non-English labels was in any way creating confusion or other problems. For example, the agency notes that the September 2 final rule did not include a minimum type size requirement for the labels required by S4.5.1 (b) or (c). Since sun visors have limited space, NHTSA is concerned that the addition of multiple language versions of the required information could result in use of a type size that would make the label difficult to read.

Maintenance Label Location

Section S4.5.1(a) of Standard No. 208, as amended by the September 2 final rule, allows the air bag maintenance label to "be combined with the label required by S4.5.1(b) of this standard to appear on the sun visor." However, S4.5.1(b)(2), as amended by the September 2 final rule, states "No other information shall appear on the same side of the sun visor to which the label is affixed."

Both VW and Nissan stated that the language of these two sections appeared contradictory, and requested clarification that it was permitted to combine the air bag maintenance and warning labels.

NHTSA agrees that the two sections are contradictory. NHTSA intended to allow the combination of the air bag maintenance and warning labels, and is amending S4.5.1(b)(2) to clarify that no information other than that in the maintenance label is allowed on the same side of the sun visor as the air bag warning label.

Signal Word "Caution"

Section S4.5.1(b)(1) requires the following information on the sun visor for every seating position with an air bag:

Caution to Avoid Serious Injury

For maximum safety protection in all types of crashes, you must always wear your safety belt.

Do not install rearward-facing child seats in any front passenger seat position.

Do not sit or lean unnecessarily close to the air bag.

Do not place any objects over the air bag or between the air bag and yourself.

See the owner's manual for further information and explanations.

Suzuki requested an interpretation of this section to allow the use of the word "WARNING" rather than the word "CAUTION." Suzuki stated that the American National Standards Institute Standard Z535.4–1991, Product Safety Signs and Labels, specifies that the signal words "Warning," "Caution," and "Danger" be used to signify different degrees of risk of personal injury. Suzuki stated that this standard would require use of the word "Warning" for the type of label required by S4.5.1(b)(1), and that allowing this word in place of "Caution" would be consistent with "a national effort toward uniformity in safety labeling of products."

NHTSA added the phrase "CAUTION, TO AVOID SERIOUS INJURY" in the final rule to "attract occupants' attention to the label and provide a brief statement of the risks of improper use and consequences." NHTSA concludes that substitution of the word "WARNING" would also achieve these goals, and is therefore permitting its use.

Miscellaneous Corrections

NHTSA is also correcting two errors made in the regulatory language in the final rule. The fifth sentence of S4.5.1(e) read: The owner's manual shall also explain that no objects should be placed over or near the label identifying the air bag on the steering wheel and instrument panel, because any such objects could cause harm if the vehicle is in a crash severe enough to cause the air bag to inflate.

NHTSA is deleting the words "the label identifying" since this label is no longer required.

The first sentence of S12.6(a) read: NHTSA will process any application for temporary exemption that contains the information specified in S21.4 and S12.5.

NHTSA is correcting the reference to S21.4 to read S12.4.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under Executive Order 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. A final regulatory evaluation was prepared for the September 2 final rule since it was significant within the meaning of the Department of Transportation's regulatory policies and procedures. NHTSA has determined that there will be no additional economic impacts from this final rule because the changes simply either clarify the previous final rule, or allow manufactures additional flexibility.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA has determined that there will be no significant economic impacts from this final rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), NHTSA notes that there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act; 15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicles safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising S4.5.1(b)(1), S4.5.1(b)(2), S4.5.1(e) and S12.6(a) to read as follows:

§ 571.208 Standard No. 208, Occupant Crash Protection.

* * * * *

S4.5 *Other general requirements.*

S4.5.1 *Labeling and owner's manual information.*

* * * * *

(b) *Label on sun visor above front outboard seating positions equipped with inflatable restraint.* (1) For vehicles manufactured on or after September 1, 1994, each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. Except as provided in S4.5.1(b)(3), and except that the word "WARNING" may be used instead of "CAUTION," this label shall read:

Caution to Avoid Serious Injury

For maximum safety protection in all types of crashes, you must always wear your safety belt.

Do not install rearward-facing child seats in any front passenger seat position.

Do not sit or lean unnecessarily close to the air bag.

Do not place any objects over the air bag or between the air bag and yourself.

See the owner's manual for further information and explanations.

(2) The color of the lettering on the label shall contrast with the background of the label. Except for the information on an air bag maintenance label placed on the visor pursuant to S4.5.1(a) of this standard, no other information shall appear on the same side of the sun visor to which the label is affixed. Except for the information in an air bag alert label placed on the visor pursuant to S4.5.1(c) of this standard, or in a utility vehicle label that contains the language required by 49 CFR 575.105(c)(1), no other information about air bags or the need to wear seat belts shall appear anywhere on the sun visor.

* * * * *

(e) *Information to appear in owner's manual.* The owner's manual for any vehicle equipped with an inflatable restraint system shall include a description of the vehicle's air bag system in an easily understandable format. The owner's manual shall include a statement to the effect that the vehicle is equipped with an air bag and a lap/shoulder belt at one or both front outboard seating positions, and that the air bag is a supplemental restraint at those seating positions. The information shall emphasize that all occupants, including the driver, should always wear their seat belts whether or not an air bag is also provided at their seating position to minimize the risk of severe injury or death in the event of a crash. The owner's manual shall also provide any necessary precautions regarding the proper positioning of occupants, including children, at seating positions equipped with air bags to ensure maximum safety protection for those occupants. The owner's manual shall also explain that no objects should be placed over or near the air bag on the steering wheel or on the instrument panel, because any such objects could cause harm if the vehicle is in a crash severe enough to cause the air bag to inflate.

* * * * *

S12.6 *Processing an application for a temporary exemption.* (a) NHTSA will process any application for temporary exemption that contains the information specified in S12.4 and S12.5. If an application fails to provide the information specified in S12.4 and S12.5, NHTSA will not process the application, but will advise the manufacturer of the information that must be provided if the agency is to process the application.

* * * * *

Issued on March 4, 1994.

Christopher A. Hart,

Deputy Administrator.

[FR Doc. 94–5485 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018 AB45

Migratory Bird Permits; Determination That Kansas, New Hampshire, and Rhode Island Meet Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service adds Kansas, New Hampshire, and Rhode Island to the list of States whose falconry laws have been determined by the Director to meet or exceed minimum standards. As a result, Kansas, New Hampshire and Rhode Island are participants in the cooperative Federal-State permit application program and falconry may be practiced by those States. Also, the asterisk preceding Missouri in 50 CFR 21.29(k) is removed as there is no longer a cooperative Federal-State permit application program in Missouri.

DATES: This rule is effective on March 10, 1994.

ADDRESSES: Comments and material concerning this rule should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203–3247. Comments and materials may be hand-delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, 4401 N. Fairfax Drive, room 500, Arlington, Virginia, between the hours of 8 a.m. and 4 p.m., Monday though Friday.

FOR FURTHER INFORMATION CONTACT: Frank S. Shoemaker, Special Agent in Charge, Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, Washington, DC 20240, Telephone Number (703) 358–1949.

SUPPLEMENTARY INFORMATION:

Background

Regulations in 50 CFR Part 21 provide for review and approval of State falconry laws by the Service. A list of States whose falconry laws have been approved by the Service is found in 50 CFR 21.29(k). Falconry is permitted in the those States. As provided by 50 CFR 21.29(c), the Director has reviewed certified copies of the falconry regulations adopted by the States of New Hampshire (New Hampshire Fish and Game Laws Chapter 209–A, effective January 1, 1988). Rhode Island (Chapter 20–17, General Laws of Rhode Island incorporating 50 CFR 21.27 through 21.30, effective December 15, 1992), and Kansas (K.A.R. 23–21–1 through 23–21–14, effective May 1, 1988). These regulations meet or exceed the minimum restrictions, conditions and requirements contained in 50 21.29(d) through (i) prescribed for permit requirements, classes of permits, examination procedures, facilities and equipment standards, raptor marking, and raptor taking restrictions. The Kansas, New Hampshire and Rhode Island regulations also meet or exceed all restrictions or conditions found in 50 CFR 21.29(j). Based on the review, the Director has determined that the

falconry regulations of the States of Kansas, New Hampshire and Rhode Island meet or exceed the Federal standards.

On March 11, 1992, the Missouri Department of Conservation notified the Service that the cooperative Federal-State permit application program was no longer in effect. Effective March 10, 1994, the practice of falconry in Kansas, New Hampshire, and Rhode Island will be governed by provisions found in 50 CFR 21.28 and 21.29 and the asterisk following Missouri in 50 CFR 21.29(k) will be removed thereby removing Missouri from the cooperative Federal-State permit application program.

The notice requirements of 5 U.S.C. § 553(b) are not applicable because public comments were solicited by the Service in a proposed rule for falconry permit regulations published in the **Federal Register** on December 20, 1987, (52 CFR 48948) and on September 14, 1989, (54 FR 38142) the final rule was published in the **Federal Register**. Also, the Kansas, New Hampshire, and Rhode Island regulatory programs allowed for reasonable public input. On November 17, 1987, the Kansas Department of Wildlife and Parks Commission held public hearings that were attended by falconers and concerned wildlife conservation organizations. Similar provisions for public hearing or comments were provided in New Hampshire on December 24, 1987, and November 20, 1992, and in Rhode Island on August 27, 1992. The Proposed Rule, Migratory Bird Permits; Determination That Kansas Meets Federal Falconry Standards, was published in the **Federal Register** on November 14, 1990, (55 FR 47498). Public comments were solicited at that time and none were received. As the rules relating too New Hampshire and Rhode Island are similar to those enacted by Kansas; and because of similar public hearings held in the respective states, as well as no comments having been received regarding the Kansas falconry rules, the falconry regulations adopted by New Hampshire and Rhode Island are also being added to this final rule.

This rule relieves a restriction prohibiting Kansas, New Hampshire and Rhode Island from the practice of falconry; therefore, it is effective upon publication in accordance with 5 U.S.C. 553(d)(1).

Need for Rulemaking

The need for changes to Title 50 CFR Part 21, has arisen from the expressed needs of those States (Kansas, New Hampshire, and Rhode Island) that have instituted falconry programs for the benefit of citizens interested in the sport of falconry and have constructed regulations that meet or exceed Federal requirements protecting migratory birds. Missouri has determined that its needs are best met by no longer participating in a cooperative Federal-State permit application program. However, Missouri remains a State in which falconry is practiced. The changes to 50 CFR 21.29 regulations are necessary to accommodate the needs of the States affected and those who wish to practice falconry in these States.

Required Determinations

This rule was not subject to the Office of Management and Budget review under Executive Order 12866. The Department of Interior has determined that this final rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). It has no potential takings implications for private property as defined in Executive Order 12630. The only effect of this rule will be to allow falconers in the States of Kansas, New Hampshire, and Rhode Island to apply for falconry permits. It is estimated that approximately 25 people or less would apply for falconry permits in each of these States. The removal of Missouri from the cooperative Federal-State permit application program does not affect the ability of individuals to either apply for or receive falconry permits in Missouri. Missouri Falconry regulations meet or exceed Federal falconry standards. Permits for falconry in Missouri will be issued separately by Federal and State authorities. This rule does not contain any information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.* These final changes in the regulations in 50 CFR part 21 are regulatory and enforcement actions that are covered by a categorical exclusion from National Environmental Policy Act procedures under 516 of the Department Manual.

Author

The primary author of this final rule is Marcia Cronan, Senior Special Agent, Division of Law Enforcement, U.S. Fish and Wildlife, Service, Washington, DC 20240.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation and Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, part 21, subchapter B, chapter I of title 50, Code of Federal Regulations, is amended as follows:

PART 21—MIGRATORY BIRD PERMITS

1. The authority citation for Part 21 continues to read as follows:

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

§ 21.29 [Amended]

2. Amend § 21.29(k) by adding to the list of States in alphabetical order the names "Kansas" preceded by an asterisk, "New Hampshire" preceded by an asterisk, "Rhode Island" preceded by an asterisk and removing the asterisk preceding "Missouri."

Dated: February 28, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 94–5579 Filed 3–9–94; 8:45 am]

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50 CFR Part 85

RIN: 1018–AB95

Clean Vessel Act Pumpout Grant Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule provides the requirements for participation in the Clean Vessel Act Grant Program authorized by Section 5604 of the Clean Vessel Act of 1992. This rule provides for the uniform administration of this new grant program.

DATES: This rules becomes effective April 11, 1994.

Proposals will be accepted for FY 1995 funds ($7.05 million) between the effective date and April 29, 1994. For FY 1996 and FY 1997, proposals will be due by May 1 of the year preceding that fiscal year (e.g., May 1, 1995 for FY 1996).

ADDRESSES: Copies may be obtained by mailing a request to the Division of Federal Aid, Fish and Wildlife Service, U.S. Department of the Interior, 1849 C Street, NW, MS 140 ARLSQ, Washington, DC 20240, or obtained from the Division of Federal Aid, Fish and Wildlife Service, U.S. Department of the Interior, room 140, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Columbus Brown, Chief, Division of Federal Aid, (703) 358–2156.

SUPPLEMENTARY INFORMATION:

Background

Sweage discharged by recreational boaters is a substantial contributor to localized degradation of water quality in the United States. The discharge of untreated sewage by boaters is prohibited under Federal law in all areas within the navigable waters of the United States. Many boaters have Type III marine sanitation devices (holding tanks), or portable toilets for sewage. However, there is currently an inadequate number of pumpout stations and dump stations for boaters to dispose of their sewage. The purpose of the Act, therefore, is to provide funds to States for the construction, renovation, operation, and maintenance of pumpout and dump stations to improve water quality.

Section 5604 of the Clean Vessel Act (Pub. L. 102–587, Subtitle F) authorizes the Director of the U.S. Fish and Wildlife Service (Director) to make grants to coastal States for conducting surveys of the status of existing facilities and need for additional facilities, and developing plans for the provision of facilities; and to all States for constructing/renovating pumpout and dump stations and for implementing associated education programs. Funds will be available on a competitive basis to ensure that grants address the highest national priorities. Amounts made available to the Service in a fiscal year are available for obligating to the States for two years. Funds obligated to the States by the Service are normally spent within the year that these funds are obligated, but are available until expended on that grant.

Summary of Comments and Recommendations

In the July 8, 1993, Interim Rule for the Clean Vessel Act Pumpout grant Program, all interested parties were requested to submit comments that might contribute to the development of a final rule for a 45 day period ending August 23, 1993. Appropriate State and Federal agencies, local governments, boaters and boating organizations, marina owners/operators, marine equipment manufacturers and retailers, conservation organizations, and other interested parties were contacted and requested to comment.

A total of 2 written comment letters on the guidelines were received by the Service from 2 marine equipment manufacturers. Both comment letters made suggestions to clarify and recommendations to modify some of the language and guidance. In addition, 1 letter opposed the direction of the Clean Vessel Act to install pumpout and dump stations, recommending on-board treatment instead.

In addition to the comments received, ten changes were made. The first change is in the Summary, Other Dates, and in § 85.21(b): The next application period will end April 29, 1994, with $7.05 million available. The second change is in the Background, second paragraph, last sentence: language was added to clarify that the funds available to the Service each year are available for obligation to the States for two years. If not obligated in that two-year period, the funds are turned over to the U.S. Coast Guard for boat safety. Once obligated to the States, however, the funds are normally spent in the year obligated, but are available until expended.

The third change is in the information collection requirements section, last two sentences: The collection of survey information has been approved by OMB, and the Service may now fund the State surveys. The fourth change is in § 85.20(b)(2), first sentence, and 85.20 (c)(3): Floating restrooms have been added as eligible for federal aid funding. This addition makes these guidelines in agreement with the technical guidelines, in which the Oregon State Marine Board commented that these restrooms should be eligible because they meet the intent of the Act to reduce vessel sewage pollution, are used solely by boaters, and provide the only means to reasonably accommodate human waste from boaters using smaller recreational watercraft 12–18 ft that do not carry portable toilets or do not have holding tanks.

The fifth change is in § 85.22(d), Grant proposals, after innovative approaches: public/private partnerships, education, sensitive waters, and public access were added. The sixth change is in § 85.30 Grant selection criteria, at end of section: Points have been added to each of the criteria for both coastal and inland States. The seventh change is in Section 85.31 Grant selection, first sentence: Regional Offices have been deleted from the ranking panel and NOAA, EPA and USCG have been added, along with the Service's Washington office Division of Federal Aid personnel.

The eighth change is in § 85.31 Grant selection., second sentence: The date for the Director to make the selection has been changed to August 1, annually. The ninth change is in § 85.44, last sentence: the phrase, "for the useful life", was deleted, and the phrase, "as long as the facility is needed and it serves its intended purpose", was added. This better reflects how long proceeds should be used for operation and maintenance. An additional sentence was also added, "Maximum fee shall be evaluated for inflation, etc., each year." This sentence was added because conditions may change through time which may require changes in the maximum fee that should be charged. The tenth change is in § 85.48, after (b): This guidance was added because some States have a question on how they should receive payment for funds expended under this grant program.

A total of 6 issues were identified by the commenters. The Service considered all suggestions and recommendations. This final guideline revises the proposed guidelines based on the issues raised by the commenters and makes other changes to clarify the requirements in the interim guidelines. Those comments adopted are included in the final guidelines in the appropriate sections. The following is a discussion of the issues raised by the commenters, the Service's responses to those issues, and a summary of changes made to the proposed guidelines.

Issue 1. Raritan Engineering Co., Inc.: Regarding the Clean Vessel Act: Low density of pumpout stations is not the problem. Pumpout stations have not been installed or used because they are messy, problematic and distasteful. The primary problems with marine sanitation today are: (1) Less than desirable compliance of existing legislation; (2) difficulty enforcing existing legislation; (3) the absence of systems appropriate for all types of boats, boaters, and boating; (4) unfair allowances for treated waste water discharge from municipal waste water plants while treated waste water from boating sources is restricted; and (5) the specter of additional no discharge zone approvals. The Clean Vessel Act attempts to solve the first problem. It will not be successful, however, because the cause has been misidentified. Additionally, it does not address problems 2 and 3, and will heighten problems 4 and 5. The Clean Vessel Act contains no provision to provide funds to improve or enhance on-board treatment of boat generated sewage, which is the future of marine sanitation. The Act should be amended to provide 50% of the Wallop-Breaux funds made available to be spent on the documentation of on-board treatment systems successes, and to fund research and development programs for improved on-board treatment systems to make them more feasible for the vast numbers of small recreational boats.

Response: The Clean Vessel Act addresses Type III marine sanitation devices, or holding tanks, only. Types I

and II, as discussed by the commenter, are not addressed in the current legislation. Suggestions made by the commenter would need additional legislation, as the Service is not authorized to make such changes.

Issue 2. Raritan Engineering Co., Inc.: Background, first sentence: The word "may be" does not correspond to the wording in the Act, which states that "Sewage discharged * * * is a substantial contributor * * *"

Response: The words "may be" have been deleted, and the word "is" has been substituted.

Issue 3. Raritan Engineering Co., Inc.: Subpart C, Part 85.30 Grant selection criteria, subpart (d): after pumpout and dump stations add "and treatment".

Response: As mentioned above in response to issue 1, treatment is not within the scope of the Act.

Issue 4. Raritan Engineering Co., Inc.: Subpart C, Part 85.30 Grant selection criteria: after (g), add "(h) Proposals for innovative ways to develop on-board treatment systems (Type I and/or II) that would be more appropriate for smaller boats (boats under 30')."

Response: As mentioned above in response to issue 1, treatment is not within the scope of the Act.

Issue 5. Raritan Engineering Co., Inc.: Subpart C, Part 85.30 Grant selection criteria: after proposed (h) add "(i) Proposals to survey coastal boaters to establish the needs of smaller boaters such that on-board treatment systems may be developed to meet the needs more precisely."

Response: As mentioned above in response to issue 1, treatment is not within the scope of the Act.

Issue 6. Sealand Technology, Inc.: Section 85.44 Fee charges, first sentence: The maximum fee of $5.00 may deter pumpout station installation for two reasons: waste disposal costs may warrant a higher fee, and a provision should be made for very large holding tanks (50 gallons plus).

Response: The Service agrees that there may be situations in which a higher fee may be needed, and a statement that higher fees should be justified has been added.

Environmental Effects

The effects on the physical, biological and sociological environment are too broad, speculative, and conjectural to be analyzed meaningfully. Therefore, the action is categorically excluded from any National Environmental Policy Act documentation pursuant to 516 DM 2.3 A(2). However, construction/renovation of pumpout and dump stations will require separate environmental consideration.

All actions that may be funded by this national grant program will comply with requirements of the National Environmental Policy Act (Appendix 1 of 516 Department Manual 6) prior to the funding. Compliance with the National Environmental Policy Act and other environmental laws related to the Endangered Species Act, Coastal Barriers Resources Act as amended by the Coastal Barrier Improvement Act, Coastal Zone Management Act, Executive Orders on Floodplains (E.O. 11988) and Wetlands (E.O. 11990), historic/cultural resources, prime and unique farmlands, and the Clean Water Act shall be completed before grant agreements are approved by the Fish and Wildlife Service.

Information Collection Requirements

The information collection requirements contained in this rule, except for surveys, are only those necessary to fulfill applicable requirements of 43 CFR Part 12, and have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The collection of survey information contained in this rule was approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.*, October 18, 1993, OMB No. 1018–0086, expiration date September 30, 1996. Burden is expected to be 176,665 responses and 30,033 reporting hours.

Statement of Effects

This rule was not subject to Office of Management and Budget review under E.O. 12866. The grant program does not involve "taking" as described in Executive Order 12630. The rule allows eligible States to make decisions regarding the development and submission of proposed grants for surveys, plans, construction/renovation and education. Therefore, it is consistent with Executive Order 12612 on Federalism. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The effects of these rules occur to agencies in the States, Puerto Rico, Guam, the Virgin Islands, American Samoa, the District of Columbia and the Northern Mariana Islands. These are not small entities under the Regulatory Flexibility Act. Some small entities, mainly marina operators, may be the recipients of grants.

Intergovernmental Review of Federal Programs

This Clean Vessel Act Grant Program is covered under Executive Order 12372 "Intergovernmental Review of Federal Programs" and 43 CFR part 9 "Intergovernmental Review of Department of the Interior Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

States and Territories that participate in the Executive Order process have established Single Points of Contact (SPOCs). Applicants should alert their SPOCs to the prospective applications and receive any necessary instructions to provide material as required by the SPOC. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the narrative. Applicants from States that choose to exempt the grants need take no action regarding E.O. 12372.

Author

The primary author of these rules is Robert D. Pacific, U.S. Fish and Wildlife Service.

List of Subjects in 50 CFR Part 85

Grant program, Grant procedures, Program policy, Project selection criteria, Natural resources, Coastal waters, Pumpout station, Dump station, Recreational vessel, Coastal zone management, Information collection, Recordkeeping and reporting requirements.

Regulation Promulgation

For the reasons set out in the preamble, Subchapter F of Chapter I, Title 50 of the Code of Federal Regulations is amended by revising Part 85.

PART 85—CLEAN VESSEL ACT GRANT PROGRAM

Subpart A—General

Sec.

85.10 Purpose and scope.
85.11 Definitions.
85.12 Information collection, recordkeeping, and reporting requirements.

Subpart B—Application for Grants

85.20 Eligible activities.
85.21 Application procedures.
85.22 Grant proposals.

Subpart C—Grant Selection

85.30 Grant selection criteria
85.31 Grant selection.

Subpart D—Conditions on Use/Acceptance of Funds

85.40 Cost sharing.
85.41 Allowable costs.
85.42 Real and personal property.
85.43 Signs and symbols.
85.44 Fee charges for use of facilities.
85.45 Public access to facilities and maintenance.
85.46 Survey and plan standards.
85.47 Program crediting.
85.48 Compliance with Federal laws, regulations, and policies.

Authority: Public Law 102–587, Subtitle F.

Subpart A—General

§ 85.10 Purpose and scope.

The purpose of this Part is to establish requirements for state participation in the Clean Vessel Act Grant Program authorized by Section 5604 of the Clean Vessel Act (Public Law 102–587, Subtitle F).

§ 85.11 Definitions.

Terms used in this Part shall have the following meaning:

(a) *Clean Vessel Act or Act.* The Clean Vessel Act (Pub. L. 102–587, subtitle F).

(b) *Coastal State.* A State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. The term also includes Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands. The term excludes Alaska and American Samoa because these States have a ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in § 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), of less than one.

(c) *Costal waters.* In the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes. In other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bays, lagoons, bayous, ponds, and estuaries.

(d) *Coastal zone.* Coastal zone has the same meaning that the term has in section 304(1) of the Coastal Zone Management Act of 1992 (16 U.S.C. 1453(1)). The coastal zone consists of coastal waters (including the lands therein and thereunder) and the adjacent shorelands, including islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands and protect coastal waters.

(e) *Construction.* Activities which produce new capital improvements and increase the value of usefulness of existing property.

(f) *Dump station.* A facility specifically designed to receive sewage from portable toilets carried on vessels. Dump stations do not include lavatories or restrooms.

(g) *Education/information.* The education/information program, as identified in the technical guidelines as published in the **Federal Register**, designed to make recreational boaters aware of the environmental pollution problem resulting from sewage discharges from vessels and inform them of the location of pumpout and dump stations.

(h) *Eligible applicant.* An agency of a State designated by the Governor.

(i) *Facility.* A pumpout station or dump station.

(j) *Grant.* An award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee.

(k) *Inland State.* A State which is not a coastal State. The District of Columbia, American Samoa and Alaska are included as inland States (Rationale for Samoa and Alaska being inland States can be found in § 85.11(b) above).

(l) *Maintenance.* Those activities necessary for upkeep of a facility. These are activities that allow the facility to function and include routine recurring custodial maintenance such as housekeeping and minor repairs as well as the supplies, materials, and tools necessary to carry out the work. Also included is non-routine cyclical maintenance to keep facilities fully functional.

(m) *Operation.* Those activities necessary for the functioning of a facility to produce desired results. These are activities that make the facility work.

(n) *Plans.* Those plans identified in the technical guidelines as published in the **Federal Register**, for construction or renovation of pumpout and dump stations necessary to ensure that there are adequate and reasonably available stations to meet the needs of recreational vessels using the coastal waters of the State.

(o) *Pumpout station.* A facility that pumps or receives sewage from a type III marine sanitation device (holding tank) installed on board vessels.

(p) *Recreational vessel.* Watercraft manufactured for operation, or operated, primarily for pleasure. This term includes any watercraft leased, rented, or chartered to another for the latter's pleasure.

(q) *Renovation.* Major rehabilitation of a facility to restore it to its original intended purpose.

(r) *Surveys.* Those surveys identified in the technical guidelines as published in the **Federal Register**. Surveys are designed to determine the number and location of all operational pumpout and dump stations at public and private marinas, mooring areas, docks, and other boating access facilities within the coastal zone. Surveys also are designed to determine the number of recreational vessels in coastal waters with holding tanks or portable toilets, and the areas of coastal waters where those vessels congregate.

(s) *Type III marine sanitation device (holding tank).* Any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge sewage.

§ 85.12 Information collection, record keeping, and reporting requirements.

(a) The information collection requirements for this grant program, except for surveys, are those necessary to comply with 43 CFR 12 which include a narrative statement as identified in 85.22 Grant Proposals. The collection of survey information contained in this rule was approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.*, October 18, 1993, OMB No. 1018–0086, expiration date September 30, 1996.

(b) Record keeping requirements include the tracking of costs and accomplishments related to the grant as required by 43 CFR 12.60, monitoring and reporting program performance (43 CFR 12.80), and financial reporting (43 CFR 12.81).

(c) Reporting requirements include retention and access requirements as required by 43 CFR 12.82.

Subpart B—Application for Grants

§ 85.20 Eligible activities.

(a) Eligible grant activities—coastal States:

(1) Eligible activities include identification in the coastal zone of all operational pumpout and dump stations, and surveys of recreational vessels in coastal waters with holding tanks or portable toilets, and the areas where those vessels congregate. Also eligible are costs of developing a list,

including chart coordinates, of all operational pumpout and dump stations in the coastal zone of the State, for submission to the Fish and Wildlife Service.

(2) Plans for construction and renovation of pumpout and dump stations in the coastal zone of the State necessary to ensure that these stations are adequate and reasonably available to meet the needs of recreational vessels using the coastal waters of the State. Completed Stated-funded plans may be submitted after the technical guidelines appear in the **Federal Register**.

(b) Eligible grant activities—all States:

(1) Eligible grant activities include education/information program to educate/inform recreational boaters about the environmental pollution problems resulting from sewage discharges from vessels and to inform them of the location of pumpout and dump stations.

(2) Eligible grant activities include the construction, renovation, operation and maintenance of pumpout and dump stations, including floating restrooms in the water, not connected to land or structures connected to the land, used solely by boaters. Eligible grant activities also include any activity necessary to hold and transport sewage to sewage treatment plants, such as holding tanks, piping, haulage costs, and any activity necessary to get sewage treatment plants to accept sewage, such as installing bleed-in facilities.

(c) Ineligible activities:

(1) Activities that do not provide public benefits.

(2) Enforcement activities.

(3) Construction/renovation of upland restroom facilities.

(4) Construction, renovation, operation and maintenance of on-site sewage treatment plants, such as package treatment plants and septic systems, and of municipal sewage treatment plants for primary and secondary treatment.

§ 85.21 Application procedures.

(a) Eligible applicants will submit their proposals to the appropriate Regional Office of the U.S. Fish and Wildlife Service.

Region 1 States Include—American Samoa, California, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington

Division of Federal Aid, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 NE 11th Avenue, Portland, Oregon 97232–4181, (503) 231–6128

Region 2 States Include—Arizona, New Mexico, Oklahoma, and Texas

Division of Federal Aid, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue SW., Albuquerque, New Mexico 87103, (505) 766–2095

Region 3 States Include—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin

Division of Federal Aid, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, (612) 725–3596

Region 4 States Include—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and the Virgin Islands

Division of Federal Aid, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 324, Atlanta, Georgia 30345, (404) 679–4159

Region 5 States Include—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia

Division of Federal Aid, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589, (413) 253–8501

Region 6 States Include—Colorado, Kansas, Montana, North Dakota, Nebraska, South Dakota, Utah, and Wyoming

Division of Federal Aid, U.S. Fish and Wildlife Service, 134 Federal Building, P.O. Box 25486, Denver, Colorado 80225 134 Union Boulevard, third floor, Lakewood, Colorado 80225, (303) 236–7392

Region 7 State Includes—Alaska

Division of Federal Aid, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, (907) 786–3435

(b) Proposals will be accepted for FY 1995 funds ($7.05 million) between the effective date and April 29, 1994. For FY 1996 and FY 1997, proposals will be due by May 1 of the year preceding that fiscal year (e.g., May 1, 1995 for FY 1996).

§ 85.22 Grant proposals.

Grant proposals will consist of a narrative which identifies and describes the following:

(a) The need within the purposes of the Act (Coastal States with approved plans should indicate how the activities contained in the proposal implements the plan);

(b) Discrete objective(s) to be accomplished during a specified time period that address the need(s);

(c) Expected results or benefits from accomplishing the objectives, including the numbers of recreational vessels and people served;

(d) The approach to be used in meeting the objectives, including specific procedures, schedules, key personnel, cooperators, grant location, innovative approaches, public/private partnerships, education, sensitive waters, public access, and estimated costs;

(e) Amount and source of matching funds; and,

(f) Fees for use of facility.

Subpart C—Grant Selection

§ 85.30 Grant selection criteria.

The Director shall give priority consideration to grant proposals that meet the criteria listed in Subsections a–h and in the accompanying chart:

(a) In coastal States that have no survey or plan, proposals to complete such survey and plan;

(b) Proposals for constructing and renovating pumpout and dump stations without an approved plan;

(c) In coastal States, proposals for constructing and renovating pumpout and dump stations in accordance with a coastal State's plan approved under section 5603(c) of the Clean Vessel Act, and for inland States, proposals for constructing and renovating pumpout and dump stations in accordance with an inland State's plan;

(d) Proposals that provide for public/private partnership efforts to develop and operate pumpout and dump stations;

(e) Proposals for innovative ways to increase the availability and use of pumpout and dump stations, e.g., where private parties put in more than the minimum amount;

(f) Proposals that include an education/information component;

(g) Proposals that benefit the waters most likely to be affected by the discharge of sewage from vessels, including the waters as defined in the technical guidelines as published in the **Federal Register**; and,

(h) Proposals in areas with high vessel/pumpout or dump station ratios.

Criteria	Points	
	Coastal state	Inland state
a. Do a survey/plan	50	.....
b. Construct w/no plan .	10	5
c. Construct with plan ..	20	10
d. Partnership	10	5
e. Innovative approach .	5	2
f. Education	5	2
g. Sensitive area	5	2
h. Low pumpout ratio ...	5	2
Total		

§ 85.31 Grant selection.

The Fish and Wildlife Service, Division of Federal Aid, will convene a ranking panel of Federal employees, to include representatives from the Service's Washington Office of the Division of Federal Aid, the National

Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the U.S. Coast Guard, to review, rank, and make funding recommendations to the Director of the Fish and Wildlife Service. The Director will make the selection of eligible grants by August 1, annually. Upon selection of a proposal the appropriate Regional Office will advise the successful applicant of additional documentation requirements.

Subpart D—Conditions on Use/ Acceptance of Funds

§ 85.40 Cost sharing.

(a) The Federal share shall not exceed 75% of total costs approved in the grant agreement.

(b) The provisions of 43 CFR 12.64 apply to cost sharing or matching requirements. Third party in-kind contributions must be necessary and reasonable to accomplish grant objectives and represent the current market value of noncash contributions furnished as part of the grant by another public agency, private organization, or individual.

§ 85.41 Allowable costs.

(a) Allowable grant costs are limited to those costs that are necessary and reasonable for accomplishment of approved grant objectives and meet the applicable Federal cost principles in 43 CFR 12.60(b). Purchase of informational signs, program signs, and symbols designating pumpout and dump stations, are allowable costs.

(b) Grants or facilities designed to include purposes other than those eligible under the Act shall have the costs prorated equitably among the various purposes. Grant funds shall only be used for the part of the activity related to the Clean Vessel Act.

(c) Costs incurred prior to the effective date of the grant agreement are not allowable with the exception that preliminary costs are allowed only with the approval of the appropriate Regional Director. Preliminary costs may include such items as feasibility surveys, engineering design, biological reconnaissance, appraisals, or preparation of grant documents such as environmental assessments for compliance with the National Environmental Policy Act.

§ 85.42 Real and personal property.

(a) Applicable regulations regarding acquisition, property records, maintenance, and disposal of real property and equipment are found in 43 CFR 12.71 and 12.72. If questions arise regarding applicability, the appropriate Regional Office should be contacted.

(b) A State shall ensure that design and installation of the facilities are in accordance with the technical standards identified in the technical guidelines as published in the **Federal Register**.

(c) The State must ensure that facilities are operated and maintained, and that structures or related assets are used for the stated grant purpose.

§ 85.43 Signs and symbols.

A national symbol, to be developed, should be installed to be clearly visible to direct boaters entering the facility to pumpout and dump stations. Appropriate information signs should be installed at pumpout and dump stations. Such information could indicate fees, restrictions, hours of operation, operating instructions, and a contact name and telephone number if the facility is inoperable.

§ 85.44 Fee charges for use of facilities.

A maximum of a $5.00 fee may be charged, with no justification, for use of pumpout facilities constructed, operated or maintained with grant funds. If higher fees are charged, they must be justified before the proposal can be approved. Such proceeds shall be retained, accounted for, and used by the operator to defray operation and maintenance costs as long as the facility is needed and it serves its intended purpose. The maximum fee shall be evaluated for inflation, etc., each year.

§ 85.45 Public access to facilities and maintenance.

All recreational vessels must have access to pumpout and dump stations funded under this grant program. Facilities shall be operated, maintained, and continue to be reasonably accessible to all recreational vessels for the full period of their useful life.

§ 85.46 Survey and plan standards.

(a) *Survey standards.* (1) Surveys should be conducted according to the technical guidelines as published in the **Federal Register**.

(2) Surveys may be conducted Statewide, if necessary, to obtain information on boats using the coastal zone.

(b) *Plan standards.* Plans should be developed according to the technical guidelines as published in the **Federal Register**.

§ 85.47 Program crediting.

Signs should acknowledge that the facility was constructed or improved with funds from the Clean Vessel Act. Following is suggested language: "This facility was built (or improved) using Federal Aid matching funds authorized by the Clean Vessel Act."

§ 85.48 Compliance with federal laws, regulations, and policies.

(a) In accepting Federal funds, State representatives must agree to and certify compliance with all applicable Federal laws, regulations, and policies. This is done by submitting an assurances statement that describes the compliance requirements for Federal grants.

(b) Compliance with environmental and other laws, as defined in Service Manual 523 FW Chapter 1, may require additional documentation. Consult with Regional Offices for specific applicability.

(c) For method of payment, refer to 43 CFR part 12, 31 CFR part 205, and any other regulations referenced in these parts.

Dated: February 11, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 94–5529 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 931199–4042; I.D. 030794A]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of Pacific cod for the inshore component in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), March 8, 1994, through 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Fishery Biologist, Fisheries Management Division, NMFS, (907) 586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and

Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii), the allocation of Pacific cod for the inshore component in the Western Regulatory area of the GOA was established by the final 1994 groundfish specifications (59 FR 7647, February 16, 1994), as 14,967 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the allocation of Pacific cod TAC for the inshore component in the Western Regulatory Area of the GOA soon will be reached. The Regional Director established a directed fishing allowance of 14,467 mt, with consideration that 500 mt will be taken as incidental catch in directed fishing for other species in the Western Regulatory Area. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by operators of vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area, effective from 12 noon, A.l.t., March 8, 1994, through 12 midnight, A.l.t., December 31, 1994.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: March 7, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–5537 Filed 3–7–94; 12:25 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 47
Thursday, March 10, 1994

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.

FEDERAL ELECTION COMMISSION

11 CFR Part 8

[Notice 1994–3]

National Voter Registration Act of 1993

AGENCY: Federal Election Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Election Commission is seeking comments on proposed regulations governing the national mail registration form and recordkeeping and reporting requirements under the National Voter Registration Act of 1993 ("NVRA" or "the Act"). Please note that the draft rules which follow do not represent a final decision by the Commission on the issues presented by this rulemaking.

DATES: Comments must be received on or before April 11, 1994.

ADDRESSES: Comments must be in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Under section 9 of the National Voter Registration Act of 1993, Public Law 103–31, 197 Stat. 77, 42 U.S.C. 1973gg–1 *et seq.*, the Federal Election Commission is required to develop a national mail voter registration form ("form") for elections to federal office, and to submit to Congress no later than June 30 of each odd-numbered year (beginning June 30, 1995), a report that assesses the impact of the Act and recommends improvements in federal and state procedures, forms, and other matters affected by the Act. 42 U.S.C. 1973gg–7(a). The Commission has no interpretive authority beyond these areas, and no enforcement powers.

The Commission notes, however, that this rulemaking does not apply to states where, on and after March 11, 1993, there was no voter registration requirement for any voter in the state with respect to an election for Federal office; or all voters in the State may register to vote at the polling place at the time of voting in the general election for Federal office. 42 U.S.C. 1973gg–2(b).

On September 30, 1993, the Commission published an Advance Notice of Proposed Rulemaking ("ANPRM") to gain general guidance from the regulated community and other interested parties on how best to carry out these responsibilities. 58 FR 51132. The Commission received 65 comments from 63 commenters in response to the ANPRM. In addition, the Commission's National Clearinghouse on Election Administration conducted a survey of state election officials to obtain information on state laws and procedures that impact on Commission responsibilities under the NVRA. Both the comments on the ANPRM and results of the survey have been considered in drafting these proposed rules and are thus part of the rulemaking record.

The Commission is publishing this Notice of Proposed Rulemaking ("NPRM") to seek comments from the regulated community and other interested parties on the specific items of information that it proposes to include on the mail registration form, and on the specific items of information that it proposes be required from the states to carry out the Act's reporting requirements.

The National Mail Voter Registration Form

The Commission is charged with developing a national mail voter registration form that "may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant) as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process." 42 U.S.C. 1973gg–7(b)(1). (The Act also requires certain specific information and attestation items to be included on the form. However, except with regard to format, these items are not discussed below because they are required by the Act.) The Commission is seeking comments on both the proposed items of information to be required or requested on the national mail registration form and the form's proposed format.

The form may require only information that is "necessary" to assess the eligibility of the applicant and to administer voter registration and other parts of the election process. Since information not deemed "necessary" cannot be required on the form, there may be conflicts between what is permissible under the NVRA and current state requirements. Several comments to the ANPRM questioned whether states may take the national form and add additional or optional items on a version of the form prepared by a state under 42 U.S.C. 1973gg-4(a)(2). However, the Commission does not have the authority to provide legal interpretations regarding issues raised by the Act. Determinations of whether to add items on the form must be made by each state in consultation with its State Attorney General. Moreover, because of the Commission's concern that the national form not be unduly lengthy, complex, or intrusive, preliminary decisions have been made that information considered "necessary" by certain states not be included on the national form. Comments are therefore sought from states and other interested parties on those items that the Commission proposes not to include on the national form that may nevertheless be considered as "necessary."

The Layout

In addition, the Commission invites comment on the layout of the form as prescribed in proposed section 8.3. The Commission places a top priority on ensuring that the form and accompanying instructions be as "user friendly" and clear as possible while accommodating requirements under the NVRA. The Commission notes that the Act requires the development of a single national form, accepted by all covered jurisdictions, that complies with the NVRA, and that: contains all elements necessary for jurisdictions to determine voter qualification and to administer voter registration and other parts of the election process (42 U.S.C. 1973gg–7(b)(1)); specifies each eligibility requirement (including citizenship) (42 U.S.C. 1973gg–7(b)(2)(A)); and contains an attestation that the applicant meets

each such requirement (42 U.S.C. 1973gg–7(b)(2)(B)).

The states' comments on the ANPRM reflected a broad range of voter eligibility requirements among the states. Other comments urged the Commission to develop a form that accommodates administrative and legal requirements, such as electronic imaging, additional information space, and bilingual requirements. In the ANPRM, the Commission sought comment on the best or most practical approach to incorporate all these aspects and still develop a single national form.

One option presented in the ANPRM was the use of a booklet format. The booklet would contain one or more tear out forms, instructions on how to complete the form, and a list of each covered state's eligibility requirements. Under this approach, the information contained in the booklet would be critical to the form, and the form could not be used without the accompanying booklet. See, proposed sections 8.2(a) and 8.3. All of the information relating to a particular state would be arranged so that the applicant will only have to turn to one place in the booklet. If the applicant had any questions concerning the form or his or her state eligibility requirements, the applicant would be able to read the information under his or her state in the booklet. Upon completing the form, the applicant would forward the form to the appropriate voter registration official, as listed in the booklet.

The Commission received several comments on the booklet approach. Comments in favor stated that the booklet approach is the most practical and feasible in light of the requirement to develop a universal form, the need to include the different state eligibility requirements, the desire to provide for additional space, and the desire that the form be "user friendly." One comment in favor raised the question of extra forms being provided without the booklet attached and suggested that the Commission require the applicant to sign that he or she has read the information contained in the booklet. Indeed, if this approach is adopted, the applicant would be required to affirm that he or she has read the contents of the form and booklet. See, proposed section 8.4(b)(3). Another comment acknowledged that the booklet approach should be used as a last resort, but suggested an alternative approach—a multi-page fold out with a tear-off registration form—and argued that the alternative approach would have less verbiage and would be less intimidating. Another comment suggested that states should be able to provide the form with their own state instructions instead of the entire national booklet. Finally, another comment urged that the form be modeled after the mail registration form used in the District of Columbia as it is considered to be the best example in terms of simplicity and clarity.

On the other hand, comments that opposed the booklet reflected concern that the form be as easy to fill out as possible, and argued that the booklet approach was costly, complicated, intimidating, time consuming, and would have a chilling effect. One commenter suggested instead that a 10″×8″ back-sided application form be implemented with one 5″×8″ portion as the actual and the other 5″×8″ portion as instructions. Other commenters suggested that the Commission limit or compromise state requirements to reflect only those requirements universally required in the covered states. One of these commenters further argued that the Commission could limit the variations on the form to, for example, those relating to felony conviction or mental capacity, or in the alternative, develop a form with printed state-specific variations. However, such an option would result in numerous state-specific printed versions instead of a single national form as contemplated by the Act.

While the Commission welcomes additional comments on these and other alternative approaches, it appears that the format that most closely meets the requirements of the NVRA is the booklet proposal. Therefore, the Commission has used that format in the proposed rules.

I. Proposed Items To Be Included on the Form

For the reasons given, the Commission is proposing in section 8.4 that the following information items be considered necessary to assess the eligibility of the applicant or to administer voter registration or other parts of the election process, and thus be included on the national mail voter registration form.

A. Whether the Application Is a New Registration, Address Change, Name Change, or a Party Change

In order to accommodate the NVRA requirement that the national form be usable as a change of address form as well as an original registration application in accordance with 42 U.S.C. 1973gg–4(a), proposed section 8.4(a)(1) would request this information as the first item on the application. Because changes of name and, in some states, changes of party affiliation are equally necessary to administering voter registration or primary elections, the Commission proposes to include these options as well. This proposed information block would contain instructions explaining that if the application is to be used as a new or change of address form, then the applicant should complete item A on the detachable portion of the form. If the application is to be used as a change of either name or party affiliation, then the applicant should complete item B on the detachable portion of the form. This approach is proposed, in part, to help facilitate the necessary keeping of up to date voter registration records.

B. Full Name of Applicant

Every state currently requires the full name of the voter registration applicant. There are, however, variations on how the full name is elicited. In light of the confusion that could result from cultural differences in the placement of the last name, and in accordance with the alphabetical order of most voter registration files, the Commission proposes in section 8.4(a)(2)(i) to require the last name first, the first name, and then the middle name. In addition, the Commission proposes to include an area for designating any suffix to the name (such as Jr., Sr., II, III, or IV).

C. Address Where You Live

Every state requires the address of each applicant, whether this be a traditional or non-traditional residence, for the necessary purpose of identifying the applicant's voting precinct and polling place. Proposed section 8.4(a)(2)(ii) would obtain this information by requiring: The applicant's street number; street name (with an instruction not to use post office box or rural route numbers); apartment or unit number; city, town, or village name; state name; and zip code. Further, in order to accommodate the concerns of several respondents to the ANPRM regarding rural addresses, proposed section 8.5(b)(3) would provide an area in the detachable portion of the application for applicants to sketch a map identifying the physical location of their residence in cases where street names, numbers, or rural route box numbers alone are insufficient.

D. Address Where You Get Your Mail (if Different From the Address Where You Live)

Because it is necessary for registrars to be able to communicate with registrants by mail, the Commission proposes in section 8.4(a)(2)(iii) to require the applicant's mailing address if it is

different from the physical address. Such information at once accommodates post office boxes, rural routes, and mailing addresses for non-traditional residences. The required items would include the applicant's: post office box, rural route number, or other mailing addresses; city, town, or village; state name; and zip code.

E. Date of Birth

The date of the applicant's birth is considered to be necessary or desirable by virtually all of the states in determining the applicant's eligibility, occasionally in differentiating between registrants of the same name, and in verifying the identity of voters at the polls. Proposed section 8.4(a)(2)(iv) would require the applicant's date of birth on the form in the standard month-day-year sequence.

F. Telephone Number (Optional)

Although not absolutely necessary, the applicant's telephone number is thought to be necessary or desirable by most of the respondents to the state survey, primarily as a means of facilitating registration applications by enabling registrars to clarify or complete required items of information by telephone. The Commission therefore proposes in section 8.4(a)(2)(v) to request the applicant's telephone number as an optional item, so as to avoid undue intrusion into the applicant's privacy and to avoid any apparent discrimination against applicants without telephones.

G. Political Party Preference

Under proposed section 8.4(a)(2)(vi), a statement of political party preference would be required only of those applicants applying in the states that require it as a necessary precondition to voting in primary elections ("closed primary states"). Applicants completing the form will be directed to consult the accompanying instructions in the booklet for their state of residence in order to determine whether their state requires this information, and, if so, how to determine whether their preferred political party is recognized in their state. For those states requiring such information, the Commission proposes to offer "unaffiliated" as an alternative to designating a political party instead of the more ambiguous and potentially confusing term "independent."

H. Voter Identification Number

The issue of requesting or requiring an identification number from voter registration applicants is a complex one. Thirteen states currently may and do require the applicant to provide their full social security number in accordance with the Privacy Act of 1974 (5 U.S.C. 552a note) while an additional 21 states consider the social security number either "necessary" or desirable. Still other states request either the social security number or some alternative to it, such as the state's driver's license or identification number.

The Commission recognizes the necessity of voter identification numbers in distinguishing between voters with the same name and date of birth. The Commission is aware, however, of the limits imposed by federal law on requiring an applicant's full social security number. 5 U.S.C. 552a note. See also 42 U.S.C. 405(c)(2)(C)(vii)(I). Even in states where this is legally permissible, the Commission is mindful of the privacy concerns articulated by the United States Court of Appeals for the Fourth Circuit in *Greidinger* v. *Davis*, 988 F.2d 1344 (4th Cir. 1993), which held that a state's practice of requiring social security numbers on voter registration applications and subsequent public disclosure of such social security numbers substantially burdened the applicant's fundamental right to vote. Therefore, states that require or accept social security numbers must keep that information confidential.

In the ANPRM, the Commission sought comment on the alternative of requiring only the last four digits of the applicant's social security number as a means of meeting privacy concerns while still allowing the use of these numbers for identification purposes. Although the Commission suggests such a practice as a possibility in states that cannot legally require full social security numbers, the Commission is concerned that requiring this alternative would arbitrarily impose on the states an identification system that may conflict with current state practices and may ultimately conflict with future individual identification systems currently under discussion or development in the public and private sectors.

In order to ensure the greatest flexibility for the states, the Commission proposes in section 8.4(a)(3) to request only whatever identification number may be required or requested from the applicant's state of residence by directing the applicant to the booklet instructions for that state, where the request or requirement would be identified.

I. Signature of Applicant Under Oath

Virtually every state requires the signature of the applicant under penalty of perjury. In addition, the Act requires the signature of the applicant under penalty of perjury. 42 U.S.C. 1973gg–7(b)(2)(C). This requirement is reflected in proposed section 8.4(b)(4).

The Act further requires a statement that "specifies each eligibility requirement (including citizenship)" and "contains an attestation that the applicant meets each such requirement." 42 U.S.C. 1973gg–7(b)(2)(A) and (B). Both because states vary significantly in their specific voter eligibility requirements, and to simplify the application form, proposed section 8.4 (b)(1) would specifically identify U.S. Citizenship on the application itself (since citizenship is a universal requirement) and then incorporate by reference the other specific voter eligibility requirements of each individual state, directing the applicant to the instructions under the applicant's state for the list of those requirements.

Under this approach, the form cannot be used without the booklet because the booklet would contain necessary information for the applicant to fill out the form. The applicant would sign a statement that he or she has read the accompanying booklet, and to the best of his or her knowledge, meets the requirements as stated in the form and in the accompanying booklet. See, proposed section 8.4(b)(3). Because a few states require a special pledge of allegiance to their state Constitution or other special oath as an eligibility requirement, the Commission likewise proposes in proposed paragraph 8.4(b)(1) to incorporate by reference any such state pledge in the oath on the national application.

J. Date of Signature

A majority of the states commented that the date of the applicant's signature is either necessary or desirable. The Commission recognizes the potential necessity of such an item whether for legal or administrative purposes, especially in light of the Act's provisions regarding the date of submitting an application versus the date of its receipt by the registrar. For example, the Act requires that completed registration applications must be forwarded to the appropriate state election official within 10 days after acceptance, except applications accepted within 5 days before the last day for registration to vote in an election must be forwarded no later than 5 days after the date of acceptance. 42 U.S.C. 1973gg–3(e) and 1973gg–5(d). Therefore, proposed section 8.4(b)(4) would require the date of signature in the standard month-day-year format.

K. If You Are Unable To Sign Your Name, the Name, Address, and Telephone Number of the Person Who Assisted You in Completing This Form

Several commenters on the ANPRM expressed concern about cases in which applicants are unable, by reason of disability or illiteracy, to sign their names. These commenters questioned whether requiring the name of the person who assisted such an applicant in completing the form would violate the Act's prohibition against "any requirement for notarization or other formal authentication." 42 U.S.C. 1973gg–7(b)(3).

In cases where the applicant is unable to sign the application, it may be legally or administratively necessary to require the name, address, and telephone number of the person assisting the applicant. Such a requirement does not appear to constitute the kind of "formal authentication" prohibited by the Act. The Commission therefore proposes in section 8.4(b)(5) to require the name, address, and telephone number of any person assisting an applicant who is unable to sign the application. However, the Commission seeks comments on whether requiring the disclosure of an assistant would constitute the kind of "formal authentication" prohibited under the Act.

II. Items on Which the Commission Has Not Made a Preliminary Proposal

The Commission is still considering whether to include race/ethnicity and gender as data elements. The Commission received several comments on both of these data elements, and recognizes that compelling arguments exist for the inclusion or exclusion of these data elements. In order to be included on the form, the data elements must meet the "necessary threshold" of the NVRA to assess voter eligibility and to administer voter registration. Therefore, further comments are encouraged from all of the states and other interested parties as to whether race/ethnicity and gender meet the "necessary threshold" under the Act The Commission will consider all comments in issuing the final rules.

A. Race/Ethnicity

Whether race/ethnicity should be regarded as a "necessary" element to be included on the national mail registration form is still a matter under consideration. Comments on the ANPRM reflected different viewpoints and an overall concern about the impact of its inclusion or exclusion. The Commission therefore welcomes comments regarding the inclusion or exclusion of this data element.

Seven states currently require race on their voter application forms, and 2 states request race as an optional item. The remaining jurisdictions do not require or request it.

Several of the key concerns of the Voting Rights Act relate to voter registration activity in that racial voter registration data facilitates the enforcement of that Act's provisions. Therefore, race/ethnicity information collected on the national form would be helpful in administrative determinations and litigation under that law. 42 U.S.C. 1973 *et seq.* Section 2 of the Voting Rights Act prohibits discriminatory voting practices and procedures nationwide, including the use of discriminatory redistricting plans and election systems that dilute minority voting strength. Section 5 of that Act prohibits the specially covered jurisdictions, all or some portions of 16 states, from implementing new election laws or procedures without preclearance from the U.S. Attorney General or the U.S. District Court for the District of Columbia. While that Act does not require specially covered jurisdictions to include race on their voter registration forms, it may be that information on registrants broken down by race is used both "as a sword and a shield" in certain instances to help the states administer and enforce the Voting Rights Act. It should be noted, however, that one covered jurisdiction employs Census Bureau figures for this purpose. In addition, one of the express findings in the NVRA was that, "discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and can disproportionately harm voter participation by various groups, including racial minorities." 42 U.S.C. 1973gg(a)(3). Moreover, the NVRA specifically cautions that its implementation is to be consistent with the Voting Rights Act of 1965 and that the NVRA does not authorize or require conduct that is prohibited by that Act. 42 U.S.C. 1973gg–9(d).

Arguments advanced by commenters in favor of requiring race/ethnicity included: it is necessary to monitor the effectiveness of registration efforts under the Act; it is necessary to comply with the intent of the NVRA to eliminate the barriers to equal voter registration; it is essential for full enforcement of the NVRA anti-discrimination provisions concerning confirmation mailings; it would provide a statistical basis for administering or enforcing the Voting Rights Act; it is necessary under the U.S. Constitution to determine whether a jurisdiction unconstitutionally discriminates on the basis of race; and, it would serve as a guide to determine minority representation of pollworkers. Furthermore, if race/ethnicity data is not included on the form, incomplete and inconclusive data on race/ethnicity would result for those jurisdictions that currently collect such data.

On the other hand, arguments presented against requiring race/ethnicity included: it is not necessary to comply with the intent of the NVRA; it is not essential for voter registration purposes; it may be viewed by potential applicants as personally offensive, an invasion on privacy, or as intimidating; and, it could lead to an application being rejected because the applicant failed to indicate his or her race.

Some of the comments suggested alternatives to an all or nothing inclusion or exclusion proposal. For example, one commenter suggested that race/ethnicity data be included on the form as an optional item only (similar to applicants optionally providing telephone numbers). Another suggestion was that racial data be included on the form only for states that currently require it by state law. A third suggestion was that racial data be included on the form only for those states that are specially covered by the Voting Rights Act (similar to the party preference requirement only for closed primary states). Finally, another suggestion was to exclude the data element from the national form, but to require or request applicants to indicate race/ethnicity on the confirmation notices required under the Act.

In light of the Voting Rights Act, the conflicting state requirements, the suggested alternatives, and the arguments presented on both sides, the Commission seeks further comments from states and other interested parties on whether race/ethnicity meets the "necessary threshold" required by the Act to assess eligibility or to administer voter registration, and whether to include race/ethnicity as a data element on the form in the final rules.

B. Gender

Whether to request or require gender as an information item is another matter still under consideration. Forty-four respondents to the state survey declared gender to be unnecessary information while two more found it to be merely desirable. Its primary utility appears to be in generating statistics. Furthermore, gender is not an eligibility requirement in any state and it is seldom necessary for distinguishing between voters (since

date of birth and/or identification numbers can accomplish this as readily). The Commission welcomes further comment on whether to include or exclude this data element on the form in the final rules.

III. Proposed Items To Be Excluded From the Form

For the reasons given, the Commission is proposing that the following items be excluded from the national mail voter registration form because they do not appear to meet the "necessary threshold" of the NVRA to assess the eligibility of the applicant or to administer voter registration or other parts of the election process. The Commission will consider all the comments it receives in issuing the final rules, and welcomes further comments on the following data elements.

A. Information Regarding Naturalization

Respondents to the state survey were evenly divided on the necessity or desirability of requiring naturalization information, while 5 commenters on the ANPRM advocated including it. The issue of U.S. citizenship appears to be best addressed within the oath required by the Act, and signed by the applicant under penalty of perjury as previously proposed. The basis of citizenship, whether it be by birth or by naturalization, is irrelevant to the citizen's eligibility. Therefore, the Commission proposes not to request or require such information on the national form.

B. Place of Birth

Eleven commenters on the ANPRM advocated requiring place of birth as an information item on the national voter registration application (with 1 opposed and 2 dissenting in favor of a state voter identification number). At the same time, 33 respondents to the state survey found place of birth to be necessary or desirable (with 15 finding it unnecessary). The Commission nevertheless proposes not to request or require place of birth.

The chief argument advanced for including place of birth is that it might serve as a means of distinguishing between applicants of the same name and date of birth. However, requiring this information has the potential for inviting unequal scrutiny of applications from citizens born outside the U.S. Given the potentially chilling effect of including this item, the Commission proposes to exclude it from the form. Moreover, the administrative purpose of distinguishing between applicants can be as effectively accomplished by employing a voter identification number such as: the full social security number in states that can require it; the last four digits of the social security number in states that cannot require the full number; the state driver's license or identification number; or another voter identification number decided on by the state. Indeed, the fact that 17 states currently function without requiring place of birth draws into question its necessity.

C. Occupation

Only 5 survey respondents declared occupation to be a necessary or desirable information item while 43 survey respondents and 1 commenter on the ANPRM declared it to be unnecessary. The only use advanced for this datum would be for the purposes of voter identification at the polls. Because there is no mutually exclusive list of occupations, individuals may have more than one occupation at a time, occupations may be readily changed, and this information is not essential for voter identification, the Commission therefore proposes not to include it on the national voter registration form.

D. Specific Information Regarding Criminal Conviction or Mental Incapacity

The Act specifically requires that the national voter registration form contain a statement that "specifies each eligibility requirement (including citizenship)" and "contains an attestation that the applicant meets each such requirement." 42 U.S.C. 1973GG–7(b)(2) (A) and (B). Yet voter eligibility requirements vary considerably among the states especially with regard to both criminal conviction and mental incapacity.

Some states, for example, disenfranchise all persons convicted of any felony. Other states disenfranchise only persons convicted of certain types of crimes (e.g. election crimes). Some states disenfranchise felons for the entire period of their sentence while others disenfranchise only incarcerated felons, or felons incarcerated or on parole but not those on probation.

State voter eligibility requirements regarding mental incapacity also vary, with some providing very specific definitions and categories and others not.

In order to accommodate the different sets of eligibility requirements without burdening the application form with them, the Commission proposes, as noted previously, to list the specific voter eligibility requirements for each state in a booklet containing a set of instructions to accompany the application. The form would direct an applicant to the state voter eligibility list in the booklet. The oath, attesting that the applicant meets the eligibility requirements of the state including those regarding criminal conviction or mental incapacity, would be signed by the applicant, and thus incorporate by reference all eligibility requirements for each of the applicable states. Therefore, because the oath appears to be sufficient to determine voter eligibility, the Commission proposes that a separate item requiring specific criminal conviction or mental incapacity information would be unnecessary.

E. Height, Weight, Hair and Eye Color, or Other Physical Characteristics

The majority of respondents to the state survey find no value in requiring height, weight, hair and eye color, or other physical characteristics on the voter registration form. Only a handful, along with 1 commenter on the ANPRM found it necessary or desirable.

It appears that the only purpose for requiring or requesting information regarding personal characteristics is for voter identification at the polls, and there is little evidence that it has ever in fact been used for that purpose. Moreover, the Commission notes that, as with occupation, many personal characteristics are variable, most notably weight and hair color but also, to some extent, height and eye color. Because such information appears to be of negligible value in voter identification, and therefore not "necessary", the Commission proposes not to require or request it on the national voter registration form.

F. Marital Status

No state considers marital status to be a necessary item of information. The Commission therefore proposes not to require or request marital status on the national voter registration form.

G. Other Names

This section deals with other names such as maiden name, spouse's name, father's name, mother's maiden name, and prior legal name. Only 7 states currently require any other name on their voter registration form, presumably for the purposes of voter identification or for capturing changes of name.

The Commission notes that many applicants might find such items to be offensive or intrusive on their privacy. Moreover, because the proposed national form would serve as a notice of change of name, that important purpose is achieved in the individual cases where it is relevant. See, proposed section 8.4(a)(1). As discussed previously, other less intrusive means

are proposed for distinguishing between applicants. The Commission therefore proposes not to require or request any other names on the national voter registration form.

H. Miscellaneous Items

Several comments on the ANPRM addressed whether to include miscellaneous items such as language preference, the need for assistance by persons with disabilities, and the willingness to serve as a pollworker.

Three commenters on the ANPRM advocated including such miscellaneous information items on the voter registration form in order to provide useful information and to facilitate administering other aspects of the election process. Four commenters opposed the inclusion of such information because it would unnecessarily complicate the form and is not essential.

The Commission is aware of the concerns of language minority groups, as well as the language minority requirements of the Voting Rights Act specified in 42 U.S.C. 1973aa–1a and 1973b(f)(4). Indeed, the Commission is hoping to develop separate versions of the national voter registration form by translating the form into each of the written languages covered by the Voting Rights Act, to the extent technically possible in a side by side format with the English version.

The Commission is also aware of the needs of persons with disabilities and the requirements of both the Voting Accessibility for the Elderly and Handicapped Act of 1984 and the Americans with Disabilities Act. 42 U.S.C. 1973ee, 42 U.S.C. 12101 *et seq.* For example, the Commission proposes below to develop the national voter registration form in the largest practicable type size in order to accommodate applicants with vision impairments.

Further, the Commission realizes that local election officials face a challenge due to the dwindling pool of potential pool workers.

However, alternative means exist for eliciting these miscellaneous items of information without burdening the voter registration form with them. States and localities might, for example, want to consider using a detachable return postcard seeking this information on the acknowledgment notice required by the Act in response to voter applications.

Because such information is not, then, necessary in the act of applying to register, the Commission proposes not to require or request any such miscellaneous information on the national voter registration form.

IV. Format

A. Layout

With regard to format, the Commission considered in the ANPRM whether the layout of the form should be a single sheet or a booklet. The booklet would include a tear out application portion and accompanying instructions. The Commission is proposing this latter approach, in proposed sections 8.3 and 8.5, because it appears to be the best way to accommodate the information requirements under the NVRA, different state requirements, and other goals for the form. Under this approach, the Commission considers the "form" to include both the application portion and the accompanying instructions. The Commission welcomes comments on this approach.

B. Size, Weight, and Color of the Form

The Commission proposes in section 8.5(a) to capture all of the required data elements on a single 5″×8″ application card of sufficient stock and weight to satisfy postal regulations and standard filing requirements. The application card would be attached by a perforated fold to another 5″×8″ card containing requests for such ancillary information, where applicable, as previous address, previous name, previous political party affiliation, and a locational map space. Under proposed section 8.5(b)(1), applicants would be able to seal the completed application by removing a strip covering a pre-glued area along the bottom of the form, folding the form at the center perforation, and attaching the pre-glued area to the top of the form. Registrars would be able to remove the sealing strip portion (which itself would be perforated) and either remove the ancillary portion or else fold it back and file it along with the application.

The Commission is proposing in section 8.5(b)(2) that the "outside" of the application contain address lines. The address of each state registration official would be provided in the accompanying instructions. Applicants would be directed to affix first class postage, and appropriate postal indicia would be preprinted accordingly.

In order to accommodate optical scanning capabilities, proposed section 8.5(c) would require ink and paper colors of sufficient contrast for that purpose, to minimize the volume of preprinted material on the application without sacrificing clarity to the applicant, and to designate a signature field rather than a signature line for the applicant's signature or mark.

A number of commenters on the ANPRM expressed concern about their need to add additional information to the application such as precinct and legislative districts. Accordingly, the Commission proposes in section 8.5(b)(4) to provide space where practicable, and on both sides of the application, blank boxes labeled "For Official Use Only."

C. Type Size

In order to accommodate applicants with vision impairments, proposed section 8.5(e) would require that the form employ the largest practicable *sans serif* type size.

D. Bilingual Requirements

Jurisdictions covered by the NVRA must provide forms which meet the requirements of the Voting Rights Act of 1965 to eliminate language barriers. 42 U.S.C. 1973aa–1(a). In order to accommodate the concerns of several commenters on the ANPRM regarding the needs of language minority groups and the language minority requirements of the Voting Rights Act, the Commission hopes to develop separate versions of the form in each of the written languages covered by that Act, to the extent technically possible in a side by side format with the English version.

E. Additional Concerns

Pursuant to the Act's requirement that the form specify "each eligibility requirement" of each state (42 U.S.C. 1973gg–7(b)(2)(A)), proposed section 8.6(a) would require the chief election official of each state responsible for coordinating activities under the NVRA to certify to the Commission each voter eligibility requirement of the state, including the standard deadline for submitting applications (with State Constitutional or statutory citations), within 30 days after the promulgation of the Final Rule. Under proposed section 8.6(b), the election official must also provide the Commission with notice of any change thereafter to such eligibility requirements or dates within 30 days of the change. The Commission also proposes in section 8.6(c) to require, from officials in states requiring or requesting the applicant's full social security number, the state's privacy statement required under the Privacy Act of 1974. 5 U.S.C. 552a note.

In addition, the Commission is considering ways to keep printing and production costs at a minimum while maintaining printing quality control. To help achieve these goals, the Commission proposes to have a modest number of each version of the form

printed at the Government Printing Office. This would make the form a government document, available for sale through the Government Printing Office, and would offer the States and other interested groups an opportunity to "ride" the print order for as many copies as they feel necessary and to reorder as needed. The Commission feels that such an approach would substantially reduce costs and provide an avenue for obtaining large quantities of the booklet.

Recordkeeping and Reporting Requirements

Under 42 U.S.C. 1973gg–7(a)(3), the Commission is required to submit to the Congress not later than June 30 of each odd-numbered year a report assessing the impact of the NVRA on the administration of elections for federal office during the preceding 2 year period. The report must also include recommendations for improvements in federal and state forms, procedures, and other matters affected by the Act. The Commission is granted regulatory authority to prescribe, in consultation with the chief election officials of the states, such regulations as are necessary to implement this reporting requirement. 42 U.S.C. 1973gg–7(a)(1).

The Commission welcomes comment on how best to implement this responsibility while maintaining confidentiality and privacy rights of individuals and not unduly burdening the states and other reporting entities. In order to produce a document that is both useful and comprehensive, the Commission anticipates that it will need several different types of data. For some of this data (such as total voting age population by state and demographic figures on reported voter registration), the Commission will use figures produced by the Bureau of Census. For the data elements identified below, however, the Commission will require the chief election official of each state responsible for coordinating activities under the NVRA to report to the Commission.

The proposed rules in new section 8.7(a) would require each state's chief election official responsible for coordinating activities under the NVRA to report to the FEC, on a form provided by the Commission, the information identified below no later than March 31 of each odd-numbered year (the year following each regularly scheduled general election for federal office, hereafter referred to as "federal general election") beginning March 31, 1995.

I. Contents of the Report

For the reasons given, the Commission invites comments on whether the following information items should be considered necessary to assessing the impact of the NVRA on the administration of elections for federal office.

A. The Total Number of Voters Registered Statewide (Both as "Active" and as "Inactive") in the Federal General Election Two Years Prior to the Most Recent Federal General Election

The Commission believes that in order to assess the impact of the NVRA between each two federal general elections, it is essential to obtain as a baseline the total number of registrants statewide (both "active" and "inactive" if the state makes such a distinction) in the federal general election prior to the one just preceding the reporting date. For example, for the 1999 report, the number would be the number of voters registered in the November 1996 election.

The Commission therefore proposes in section 8.7(b)(1) to require this information on each state report. It further proposes to convey the number of active registrants to the Congress not only in numbers, but also, based on Census figures, as a percentage of voting age population in each state.

According to the NVRA legislative history, states may designate registrants, under certain circumstances, as "inactive". Throughout the following discussion, the term "active" refers to all registered voters except those who have received and not responded to the confirmation mailing sent in accordance with 42 U.S.C. 1973gg–6(d) and not offered to vote. See, proposed section 8.2(c). The term "inactive" refers to registrants who have neither responded to the confirmation mailing nor offered to vote. See, proposed section 8.2(d). For purposes of reporting under these rules, if a state does distinguish between "active" and "inactive" registrants, then the state shall also report the number of each.

B. The Total Number of Voters Registered Statewide (Both as "Active" and as "Inactive") in the Most Recent Federal General Election

In order to determine the overall increase or decrease in voter registration between federal general elections, proposed section 8.7(b)(2) would require from each state the total number of voters registered in the most recent federal general election and the number of "active" and "inactive" registrants if the state makes such a distinction.

C. The Total Number of New Valid Registrations Statewide Between the Past Two Federal General Elections

Because changes in total voter registration figures between federal general elections result from additions to the list as well as deletions from the list, the Commission proposes in section 8.7(b)(3) to require of each state the total number of new valid registrations between the date of the most recent federal election and the one prior to the most recent (ruling out any duplicate or rejected applications).

D. If the State Distinguished Between "Inactive" and "Active" Voters, the Total Number of Registrants Statewide That Were Designated "Inactive" Between the Past Two Federal General Elections and Were Still Designated "Inactive" After the Past Federal General Election

In order to maintain consistency in the numbers of registrants reported, proposed section 8.7(b)(4) would require from those states who adopt the practice of distinguishing between "active" and "inactive", the number of registrants designated as "inactive" between the most recent federal general election and the one prior to that and who remained "inactive" after the most recent federal general election (thus ruling out registrants that were designated "inactive" but were restored to "active" status by reason of returning a confirmation notice or voting).

Confirmation notices must be mailed to ensure the maintenance of accurate and current voter registration rolls for election to Federal office according to 42 U.S.C. 1973gg–6(b). Therefore, the proposed information should be readily obtained by state election officials, since the Act specifically requires registration officials to maintain records for at least 2 years regarding confirmation notices mailed out as well as the responses to such notices (42 U.S.C. 1973gg–6(i)(2)), and because the number of registrants designated as "inactive" is merely the number of persons who have neither responded to the confirmation notices nor subsequently voted.

E. The Total Number of Registrations Statewide That Were, for Whatever Reason, Deleted From the Registration List Between the Past Two Federal General Elections

Because changes in total voter registration figures between federal general elections result from deletions from the list as well as from additions to it, the Commission proposes in section 8.7(b)(5) to require of each state the total number of registrations (both

"active" and "inactive" if the state makes such a distinction) that were, for whatever reason, deleted from the registration list between the past two federal general elections.

F. The Total Number of Registration Applications Statewide That, Between the Past Two Federal General Elections, Were Received or Generated by Collectively: (1) All Motor Vehicle Offices; (2) Mail; (3) All Public Assistance Agencies That Are Mandated as Registration Sites Under the NVRA; (4) All State Funded Agencies Primarily Serving Persons With Disabilities; (5) All Armed Forces Recruitment Offices; (6) All Other Agencies Designated by the State; and (7) All Other Means (Including In-Person, Deputy Registrars, Organized Voter Registration Drives Delivering Forms Directly to Registrars, etc.)

A principal objective of the NVRA is to expand the number and range of locations where eligible citizens may obtain and complete a voter registration application. Accordingly, the Commission believes that any assessment of the impact of the NVRA should include an indication of the level of voter registration activity at the various categories of locations (as distinct from individual agencies or offices). Under proposed section 8.7(b)(6), information regarding the number of registration applications received from or generated by the various categories of locations identified above would be required to be reported. It is important to note that the Commission seeks the total number of applications (regardless of whether they are valid, rejected, duplicative, or address changes) since these numbers will reflect the overall level of registration activity at various types of sites. Issues of how to categorize certain applications (such as those that are obtained by the applicant from a public assistance agency or from an organized registration drive but are mailed in by the applicant) are not as important as assuring that the method of categorization is consistent throughout the State and over time.

G. The Total Number of Redundant or "Duplicate" Registration Applications Statewide That, Between the Past Two Federal General Elections, Were Received From or Generated by Collectively: (1) All Motor Vehicle Offices; (2) Mail; (3) All Public Assistance Agencies That Are Mandated as Registration Sites Under the NVRA; (4) All State Funded Agencies Primarily Serving Persons With Disabilities; (5) All Armed Forces Recruitment Offices; (6) All Other Agencies Designated by the State; and (7) All Other Means (Including In-Person, Deputy Registrars, Organized Voter Registration Drives Delivering Forms Directly to Registrars, etc.)

The Commission believes that it is important to gauge the level of unfruitful voter registration activity at both the categories of registration sites and by voter registrars. In order to do so, the Commission proposes in section 8.7(b)(7) requiring the number of redundant or duplicate registration applications received from each category of registration site identified above. A "duplicate registration application" is an offer to register by a person already registered to vote within the same jurisdiction. *See,* proposed section 8.2(e). Collecting such information might lead to better registration site selection or may indicate the need for improved voter information regarding the absence of the need to reapply if one is already registered and has not changed address.

H. The Statewide Number of Confirmation Notices Mailed Out Between the Past Two Federal General Elections and the Statewide Number of Responses Received to These Notices During That Same Period

The Act requires that registrars mail out confirmation notices to certain types of registrants. 42 U.S.C. 1973gg–6(d)(2). The Act further requires that States maintain records of all such mailings along with information concerning whether each recipient has responded to the notice. 42 U.S.C. 1973gg–6(i)(2). The Commission notes that such information is important in assessing the impact of the NVRA and that, in States which do not distinguish between "active" and "inactive" registrants, such numbers are essential to adjusting overall registration figures. The Commission, therefore, proposes in section 8.7(b)(8) to require that such information be reported.

I. The Postal Costs Incurred Statewide Between the Past Two Federal General Elections for All Mailings Required Under the NVRA

The Act requires at least five types of mailings to be paid for by the registrar's office: A notice to each applicant of the disposition of the registration application (42 U.S.C. 1973gg–6(a)(2)); a forwardable mailing to registrants who, according to Postal Service information, have changed address within the registrar's jurisdiction (42 U.S.C. 1973gg–6(c)(1)(B)(i)); a postage prepaid, pre-addressed return form by which registrants who may have moved within the same jurisdiction may verify or correct their address information (42 U.S.C. 1973gg–6(c)(1)(B)(i)); a forwardable confirmation mailing to registrants who may have moved outside the registrar's jurisdiction (42 U.S.C. 1973gg–6(d)(2)); and a prepaid, pre-addressed return card whereby registrants who may have moved outside the jurisdiction may state their current address (42 U.S.C. 1973gg–6(d)(2)). In addition to these required mailings, and depending on the specific procedures adopted by each state, the Act may also entail the costs of employing the Postal Service's National Change of Address ("NCOA") program or (in lieu of using the NCOA) a direct, return-if-undeliverable, address-correction-requested mailing to some or all of the voter registration list.

The Commission believes that, in order to gauge the impact of the NVRA on the administration of federal elections, it is important to require reporting of the postal costs incurred statewide for each of these items. Proposed section 8.7(b)(9) would require such reporting.

J. In the State's First Report, a Brief Narrative Description of the State's Implementation of the NVRA; and in Subsequent State Reports, any Significant Changes to the Program

Because the Act provides the states a number of options in complying with the NVRA, the Commission believes that an overall description on how each state has initially gone about implementing the Act is essential to assessing its impact. In order to ease this burden, and in order to enhance comparability across states, the Commission proposes in section 8.7(b)(10) to provide, on the FEC reporting form, a series of questions with categorical responses requiring the state to indicate the options or procedures the state has selected in implementing the NVRA. By the same token, and in the same manner, the

Commission proposes to inquire in all subsequent reports about any significant changes in each state's program.

K. Problems Encountered

The Commission notes that no report on the impact of the NVRA would be complete without identifying the types of problems encountered in its implementation and operation. Accordingly, under proposed section 8.7(b)(11), an area on the reporting form would be provided for states to identify any problems they have encountered along with the measures they have taken to address any such problems.

II. Items Not To Be Reported

Although a few commenters on the ANPRM suggested them, the Commission, for the reasons given, proposes not to request reporting of the following items:

A. Any Numbers or Other Information Regarding Registration Applications From Specific Offices or Agencies Designated as Registration Sites Under the NVRA

Although, as noted previously, the Commission proposes to require the numbers of applications from categories of registration sites designated under the NVRA, the Commission believes that the required reporting of information regarding specific offices or agencies would place an undue burden on local registration offices and could undermine the confidentiality requirements of the Act (which prohibits public disclosure of information regarding the specific public assistance agency or motor vehicle office through which any individual registered) with respect to applications from specific motor vehicle offices (42 U.S.C. 1973gg–3(c)(2)(D)(iii)) and from specific public assistance agencies (42 U.S.C. 1973gg–6(i)(1)). At the same time, however, states may for their own purposes wish to code their registration applications in such a manner as to be able, under certain circumstances, to identify originating offices or agencies. Although such information might be valuable to states in assessing the accuracy and efficiency of their individual intake sites, the Commission proposes not to require the reporting of such information.

B. The Number of Declinations Filed at Agencies or Motor Vehicle Offices

The Act requires that applicants at public assistance agencies be provided a form on which they may decline in writing to register to vote and permits, though does not require, such a procedure in motor vehicle offices. 42 U.S.C. 1973gg–5(a)(6)(B). There are any number of reasons why a person may decline to register to vote, not the least of them being that the person is already registered. Moreover, the same person may decline to register several times during the same two year period at different agencies or even at the same agency. Retaining records on the number of declinations will therefore not be likely to yield any statistically useful information. The Commission also wishes to avoid discouraging agencies from participating in voter registration activities by imposing on them burdensome reporting responsibilities.

At the same time, however, states must retain declination documents for 22 months. 42 U.S.C. 1974 *et seq.* Although states may want to ensure that such declinations are retained in such a manner as to be able to identify originating offices or agencies, the Commission proposes not to request the number of declinations.

C. The Number of Persons Voting Under the "Fail-Safe" Provisions of the NVRA

The Act permits some registrants, under very specific circumstances, to vote on election day by affirming their residence. In doing so, it grants states considerable latitude in how to administer such a process. Some procedures may generate statistics more readily than others. Moreover, such cases may be difficult to distinguish from other cases whereby, under state law, voters may already be permitted to cast a provisional ballot. The Commission therefore proposes that the burden on state and local registration offices of counting the number of persons voting under the "fail-safe" provisions of the Act outweighs whatever value such information might have in assessing the impact of the NVRA.

D. The Number of Persons Newly Registered Between the Past Two Federal General Elections Who Voted in the Past Federal General Election

The overall purpose of the NVRA is to increase the opportunity of citizens to register to vote. The information the Commission is proposing to be reported is designed to gauge the effect of the Act in increasing voter registration. Whether or not registered persons subsequently vote, however, is a separate matter driven by a multitude of variables outside the Act. Moreover, levels of voter participation can be ascertained by other means. Both because state and local election offices do not routinely gather information on the subsequent voting of specific groups of registrants and the burden such a data collection effort would impose, the Commission proposes not to require such information to be reported.

E. The Implementation or Operating Costs, Other Than the Postal Costs, of the NVRA

Based on some comments to the ANPRM, the Commission recognizes that a number of people will want to know the implementation and operating costs of the NVRA. For a number of very practical reasons, however, the Commission proposes not to seek such data other than postal costs as previously proposed.

The first of these reasons is that the states approach the NVRA from different starting points. Some already have motor voter, mail, or agency voter registration programs in progress while others operate none of these. It seems reasonable to imagine that the costs of newly implementing any of these programs will entail an up-front expenditure which could not be compared to any new costs incurred by states that already administer some or all of the programs.

The second reason is that states vary considerably in their degrees of computerization in election offices as well as in motor vehicle and public assistance agencies. Computerization at both the state and local levels will result in apparent reduced operating costs in states that already employ such technology.

The third reason is that, in recognition of the differences among state election laws and procedures, the Act provides the states a wide variety of options in implementing many of its provisions. Since different implementation strategies are likely to incur different kinds of costs, comparisons and even total cost figures would be misleading.

Finally, it is the experience of this Commission in conducting previous research on election costs, that few local election offices are able to isolate their election related costs from the costs of other non-election-related office activities. Fewer still are able to isolate registration-related costs from other election costs, and very few indeed would be able to isolate NVRA-related costs from other registration costs. Moreover, cost accounting systems vary widely not only from state to state but also from locality to locality within states.

Because ascertaining the implementation and operating costs of the NVRA would require imposing on election offices nationwide a uniform and burdensome accounting system, the

Commission proposes to limit cost data to the more uniform, comparable, and readily obtained item of postal costs. However, this proposal would not preclude states from voluntarily reporting other costs, e.g. in the Problems Encountered section of the report.

List of Subjects—11 CFR Part 8

National Voter Registration Act.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached proposed rules would not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities would be affected by these rules.

For the reasons set out in the preamble, it is proposed to add a new part 8 to Chapter I of Title 11 of the Code of Federal Regulations as follows:

PART 8—NATIONAL VOTER REGISTRATION ACT (42 U.S.C. 1973gg–1 ET SEQ.)

Subpart A—General Provisions

Sec.

8.1 Purpose and scope (42 U.S.C. 1973gg–7(a)(1)).
8.2 Definitions.

Subpart B—Mail Voter Registration Form

Sec.

8.3 General information.
8.4 Contents (42 U.S.C. 1973gg–7(a) and (b)).
8.5 Format (42 U.S.C. 1973gg–7(a)).
8.6 Chief State Election Official (42 U.S.C. 1973gg–7(a) and 1973gg–8)

Subpart C—Recordkeeping and Reporting

Sec.

8.7 Contents of Reports from the States (42 U.S.C. 1973gg–7)

Authority: 42 U.S.C. 1973gg–1 *et seq.*

Subpart A—General Provisions

§ 8.1 Purpose and scope (42 U.S.C. 1973gg–7(a)(1)).

These regulations implement the responsibilities delegated to the Commission under section 9 of the National Voter Registration Act of 1993, Public Law 103–31, 97 Stat. 77, 42 U.S.C. 1973gg–1 *et seq.* ("NVRA"). They describe the format and contents of the national mail voter registration form and the information that will be required from the states for inclusion in the Commission's biennial report to Congress.

§ 8.2 Definitions.

As used in this part:

(a) *Form* means the national mail voter registration application form which includes the registration application and accompanying booklet.

(b) *Chief State Election Official* means the designated chief state officer or employee responsible for the coordination of state responsibilities under the NVRA.

(c) *Active voters* means all registered voters except those who have received and not responded to a confirmation mailing sent in accordance with 42 U.S.C. 1973gg–6(d) and not offered to vote.

(d) *Inactive voters* means registrants who have received and not responded to a confirmation mailing sent in accordance with 42 U.S.C. 1973gg–6(d) and not offered to vote.

(e) *Duplicate registration application* means an offer to register by a person already registered to vote within the same jurisdiction.

Subpart B—Mail Voter Registration Form

§ 8.3 General information.

The mail voter registration form shall consist of two components: a tear-gas application, which shall contain appropriate spaces for the applicant to provide all of the information required under 11 CFR 8.4(a); and an accompanying booklet, which shall contain instructions for completing the application arranged by state, the state election officials' addresses and telephone numbers, and information regarding each state's voter registration requirements as described in 11 CFR 8.4(b)(1).

§ 8.4 Contents (42 U.S.C. 1973gg–7(a) and (b)).

(a) *Information about the applicant.* The mail voter registration form shall provide appropriate spaces for the following information from each applicant:

(1) Whether the application is a new registration application, change of address, change of name, or change of party affiliation.

(i) If the application is a new application or change of address, the form shall instruct the applicant to complete item A on the detachable portion of the application indicating the address from which the applicant was previously registered.

(ii) If the application is for a change of name or a change of party, the form shall instruct the applicant to complete item B on the detachable portion of the application indicating the applicant's former name or party affiliation.

(2) The applicant's:

(i) Last, first, and middle name and any suffix;

(ii) Address where the applicant lives including: street number; street name; apartment or unit number; city, town, or village name; state; and zip code, with instructions not to use a post office box or rural route number;

(iii) Mailing address if different from the address where the applicant lives, such as a post office box, rural route number, or other street address; city, town, or village name; state; and zip code;

(iv) Month, day, and year of birth;

(v) Telephone number as an optional item for the applicant to provide; and

(vi) Political party preference, for applicants whose states require a statement of political party preference as a necessary precondition for voting in primary elections ("closed primary state").

(A) The application shall include instructions telling applicants to consult the accompanying booklet to determine if the applicant's state is a closed primary state and to obtain the telephone number of the state election official for information on the qualified parties of the applicant's state.

(B) The application shall also include a warning that if the applicant is registering in a closed primary state, failure to indicate a political party preference will prevent the applicant from voting in partisan races in primary elections.

(C) The booklet shall list whether a state is a closed primary state and include the telephone number of the state election official. The booklet shall also list "unaffiliated" as a political party preference option.

(3) A voter identification number as required or requested by the applicant's state of residence.

(i) The application shall include instructions for the applicant to consult the accompanying booklet to determine what type of voter identification number the state requires or requests.

(ii) The booklet shall include what type of voter identification number, if any, is required or requested by each state.

(iii) For each state using the applicant's full social security number as its voter identification number, the state's Privacy Act notice provided in accordance with 11 CFR 8.6(c), shall be reprinted in the booklet.

(b) *Required information.* (42 U.S.C. 1973gg–7(b)(2) and (4)). The form shall also include a statement that:

(1) Specifies each eligibility requirement (including citizenship). The application shall list U.S. Citizenship as an eligibility requirement

and include a statement, through incorporation by reference, of each state's eligibility requirements (including any special pledges) and shall instruct the applicant to consult the booklet to determine what his or her state requirements are;

(2) Informs applicants of the penalties provided by law for submitting false voter registration applications;

(3) Contains an attestation that the applicant has read both the form and the accompanying booklet and, to the best of his or her knowledge and belief, meets each of his or her state's eligibility requirements;

(4) Requires the signature of the applicant, under penalty of perjury, and the date of the applicant's signature;

(5) If the applicant is unable to sign the application without assistance, the name, address, and telephone number of the person who assisted the applicant in completing the form;

(6) If an applicant declines to register to vote, a statement of the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(7) If an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

§ 8.5 Format (42 U.S.C. 1973gg–7(a)).

(a) *Size.* The form shall consist of a 5" by 8" application card of sufficient stock and weight to satisfy postal regulations and standard filing requirements. The application card shall be attached by a perforated fold to another 5" by 8" card containing space for items A and B, in accordance with 11 CFR 8.4(a)(1).

(b) *Layout.* (1) The form shall be sealable.

(2) The "outside" of the form shall contain an appropriate number of address lines.

(3) The detachable portion of the application shall contain space to permit applicants from rural districts to draw a locational map showing their place of residence and to indicate, where applicable, a former address, former name, or former party preference.

(4) Both sides of the application card shall contain space designated "For Official Use Only."

(c) *Color.* The form shall be of ink and paper colors of sufficient contrast to permit for optical scanning capabilities.

(d) *Signature field.* The form shall contain a signature field in lieu of a signature line.

(e) *Type size.* (1) All print on the form shall be of the largest practicable *sans serif* type size.

(2) The requirements on the form specified in 11 CFR 8.4(b) (1), (6), and (7) shall be in print identical to that used in the attestation portion of the application required by 11 CFR 8.4(b)(3).

§ 8.6 Chief State Election Official (42 U.S.C. 1973gg–7(a) and 1973gg–8).

(a) Each chief state election official shall certify to the Commission within 30 days after the promulgation of these rules:

(1) Each voter registration eligibility requirement of the state and its corresponding State Constitution or Statutory citation; and

(2) The State's deadline for submitting voter registration applications.

(b) Each chief state election official shall notify the Federal Election Commission, in writing, within 30 days of any change to the State's voter registration eligibility requirements.

(c) If the state, in accordance with 11 CFR 8.4(a)(3), requires or requests the applicant's full social security number, the chief state election official shall provide the Commission with the text of the state's privacy statement required under the Privacy Act of 1974. (5 U.S.C. 552a note).

Subpart C—Recordkeeping and Reporting

§ 8.7 Contents of reports from the states. (42 U.S.C. 1973gg–7).

(a) The chief state election official is responsible for filing the information required under this section with the Commission by March 31 of each odd-numbered year beginning March 31, 1995. Reports must be mailed to: National Clearinghouse on Election Administration, Federal Election Commission, 999 E Street, NW., Washington, DC 20463. The data to be reported in accordance with this section shall consist of applications or responses received up to and including the date of the federal general election.

(b) The report required under this section shall include:

(1) The total number of voters registered statewide, including "active" and "inactive" voters if that information is maintained by the state, in the federal general election two years prior to the most recent federal general election;

(2) The total number of voters registered statewide, including "active" and "inactive" voters if that distinction is made by the state, in the most recent federal election;

(3) The total number of new valid registrations statewide between the past two federal general elections, less any duplicate or rejected applications;

(4) If the state distinguishes between "inactive" and "active" voters, the total number of registrants statewide that were designated "inactive" between the past two federal general elections and were still designated "inactive after the past federal general election;

(5) The total number of registrations statewide that were, for whatever reason, deleted from the registration list, including both "active" and "inactive" voters if that distinction is made by the state, between the past two federal general elections;

(6) The total number of registration applications received statewide (regardless of whether they were valid, rejected, duplicative, or address changes) that were received from or generated by each of the following categories of locations:

(i) All motor vehicle offices;

(ii) Mail;

(iii) All public assistance agencies that are mandated as registration sites under the Act;

(iv) All state funded agencies primarily serving persons with disabilities;

(v) All Armed Forces recruitment offices;

(vi) All other agencies designated by the state;

(vii) All other means, including but not limited to, in person, deputy registrars, and organized voter registration drives delivering forms directly to registrars;

(7) The total number of redundant or duplicate registration applications statewide that, between the past two federal general elections were received from or generated by each of the categories described in paragraphs (b)(6)(i) through (vii) of this section;

(8) The statewide number of confirmation notices mailed out between the past two federal general elections and the statewide number of responses received to these notices during the same period;

(9) The postal costs incurred statewide between the past two federal general elections for each of the following categories;

(i) Notices to applicants of the disposition of registration applications;

(ii) Forwardable mailings to applicants who, according to Postal Service information, have changed address within the registrar's jurisdiction;

(iii) Postage prepaid pre-addressed return forms by which registrants who may have moved within the same jurisdiction may verify or correct their address information;

(iv) Forwardable mailings to registrants who may have moved outside the registrar's jurisdiction;

(v) Prepaid, pre-addressed return cards whereby registrants who may have moved outside the jurisdiction may state their current address;

(vi) The costs of employing the Postal Service's National Change of Address program or the cost of direct, return-if-undeliverable, address-correction-requested mailings to some or all of the voter registration list;

(10) For the first state report due, a brief narrative or general description of the State's implementation of the NVRA and, in all subsequent reports, any significant changes to the state's voter registration program. The report form will contain a series of questions with categorical responses for the state to indicate which options or procedures the state has selected in implementing the NVRA; and

(11) Problems encountered and the measures taken, if any, to address these problems.

Dated: March 4, 1994.

Trevor Potter,

Chairman.

[FR Doc. 94–5461 Filed 3–9–94; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–ASO–19]

Proposed Revision of Class D Airspace at Louisville, Bowman Field, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Louisville, KY Class D airspace. It would eliminate the overlapping of Louisville, Bowman Field, Class D airspace with Louisville, Standiford Field Class C airspace by redefining the lateral and vertical limits of Bowman Field Class D airspace. The existing Class D airspace area for Bowman Field extends into the overlying Standiford Class C airspace area. This revision would reduce the ceiling of the Class D airspace from 3000 feet MSL to an altitude of up to but not including 2,200 feet MSL. The amendment would also eliminate the small portion of the Bowman Field Class D airspace area that underlies the Standiford Class C airspace 1,700 foot MSL shelf. The changes are needed to avoid confusion for pilots that might inadvertently enter the Class C airspace area due to the existing charting. The intended effect of this action is to provide segregation of aircraft operating within Bowman Field Class D airspace, from aircraft operating within Standiford Class C airspace.

DATES: Comments must be received on or before: May 2, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 93–ASO–19, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 530–B, 1701 Columbia Drive, College Park, Georgia 30337; telephone (404) 305–5200.

FOR FURTHER INFORMATION CONTACT: Ralph C. Bixby, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5589.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASO–19." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 530–B, 1701 Columbia Drive, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class D airspace at Bowman Field Airport, KY. The existing Class D airspace area for Bowman Field extends into the overlying Standiford Class C airspace area. This amendment would reduce the ceiling of the Class D airspace from 3,000 feet MSL to an altitude of up to but not including 2,200 feet MSL. The amendment would also eliminate the small portion of the Bowman Class D airspace area that underlies the Standiford Class C airspace 1,700 foot MSL shelf. The changes are needed to avoid confusion for pilots that might inadvertently enter the Class C airspace area due to the existing charting.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace areas are published in Paragraph 5000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1. The Class D airspace listed in this document would be published subsequently in the Handbook.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation Air.

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 Designation of Class D Airspace

* * * * *

ASO KY D Louisville Bowman Field, KY [Revised]
Louisville, Bowman field, KY
(lat. 38°13'41" N., long. 85°39'50" W.)
Standiford Field Airport (lat. 38°10'29" N., long. 85°44'11" W.)

That airspace extending upward from the surface to but not including 2,200 feet MSL within a 3.9 mile radius of Bowman Field, excluding the portion within Louisville Standiford Field, KY, Class C Airspace Area, and excluding that portion south of the 081° bearing from Standiford field Airport.

* * * * *

Issued in College Park, Georgia, on February 15, 1994.

Walter E. Denley,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 94–5560 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–AGL–18]

Proposed Alteration of VOR Federal Airway V–116; MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would alter Federal Airway V–116 located in Michigan. This action would realign Federal Airway V–116 from the Keeler, MI, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facility to the Jackson, MI, Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) facility via the Kalamazoo, MI, (VOR/DME) facility. This action would improve navigation.

DATES: Comments must be received on or before April 25, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AGL–500, Docket No. 93–AGL–18, Federal Aviation Administration, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket many also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AGL–18." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3485.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter Federal Airway V–116. Because of signal interference, the minimum en route altitude (MEA) along a segment of the airway is 10,000 feet mean sea level (MSL). Realigning V–116 over the Kalamazoo, MI, VOR/DME would make it possible to lower the MEA to 3,000 feet MSL and enhance navigation. Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The airway listed in this document would be published subsequently in the Order.

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

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–116 [Revised]

From INT Kansas City, MO, 076° and Napoleon, MO, 005° radials, via Macon, MO; Quincy, IL; Peoria, IL; Pontiac, IL; Joliet, IL. From INT Chicago O'Hare, IL, 092° and Chicago Heights, IL, 013° radials, INT Chicago O'Hare 092° and Keeler, MI, 256° radials; Keeler; Kalamazoo, MI; INT Kalamazoo 089°T(090°M) and Jackson, MI, 265°T(270°M) radials; Jackson; INT Jackson 089° and Salem, MI, 252° radials; Salem; Windsor, ON, Canada; INT Windsor 092° and Erie, PA, 281° radials; Erie; Bradford, PA; Stonyfork, PA; INT Stonyfork 098° and Wilkes-Barre, PA, 310° radials; Wilkes-Barre; INT Wilkes-Barre 084° and Sparta, NJ, 300° radials; to Sparta. The airspace within Canada is excluded.

* * * * *

Issued in Washington, DC, on February 25, 1994.

Willis C. Nelson,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 94–5565 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AGL–6]

Proposed Modification of Class D Airspace; Glenview, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify the Class D airspace at Glenview, IL. A review of the Glenview, IL, Class D airspace found an oversight regarding ground elevation. As a result of this finding the Class D airspace legal description for Glenview Naval Air Station (NAS), Glenview, IL, requires modification. The modification would change the words in the description from: "upward from the surface to and including 3,000 feet MSL" to: "upward from the surface to and including 3,200 feet MSL". No other changes are being proposed in this notice of proposed rulemaking.

DATES: Comments must be received on or before April 22, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 94–AGL–6, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Robert Frink, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AGL–6." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify the Class D airspace at Glenview, IL. A review of the Glenview, IL, Class D airspace found an oversight regarding ground elevation. As a result of this finding the Class D airspace legal description for Glenview Naval Air Station (NAS), Glenview, IL, requires modification. The modification would change the words in the description from: "upward from the surface to and including 3,000 feet MSL" to: "upward from the surface to and including 3,200 feet MSL". No other changes are being proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class D airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 5000 General

* * * * *

AGL IL D Glenview, IL [Revised]

NAS Glenview, IL
(lat. 42°05′00″ N., long. 87°49′06″ W.)
Northbrook VORTAC
(lat. 42°13′26″ N., long. 87°57′06″ W.)
Chicago-O'Hare International Airport, IL
(lat. 41°58′46″ N., long. 87°54′14″ W.)
Glenview TACAN
(lat. 42°05′08″ N., long. 87°49′21″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL a 4.1-mile radius of NAS Glenview and within 1.8 miles each side of the Northbrook VORTAC 162° and 145° radials extending from the Chicago-O'Hare International Airport and the NAS Glenview 4.1-mile radius to 1.8 miles south along the 162° radial of the Northbrook VORTAC and 3.8 miles southeast along the 145° radial of the Northbrook VORTAC, and within 1.7 miles each side of the NAS Glenview TACAN 100° radial extending from the 4.1-mile radius to 5.7 miles east of the TACAN, and within 1.3 miles each side of the NAS Glenview TACAN 002° radial at 4.1 miles and within 2.0 miles west and 1.4 miles east of the NAS Glenview TACAN 002° radial extending from the 4.1-mile radius to 6.1 miles north of the TACAN, excluding that airspace within the Chicago, IL, Class B airspace area.

* * * * *

Issued in Des Plaines, Illinois on February 25, 1994.

John P. Cuprisin,

Manager, Air Traffic Division.

[FR Doc. 94–5566 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 10, 12, 102, 134, and 177

RIN 1515–AB19

Rules of Origin Applicable to Imported Merchandise; Extension of Comments

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This document extends the period of time within which interested members of the public may submit comments on proposed amendments to the Customs Regulations setting forth uniform rules governing the determination of the country of origin of imported merchandise. Customs has been requested to extend the comment period to allow additional time to prepare responsive comments. The comment period is extended to July 5, 1994.

DATES: Comments must be received on or before July 5, 1994.

FOR FURTHER INFORMATION CONTACT: Sandra L. Gethers, Office of Regulations and Rulings (202–482–6980).

SUPPLEMENTARY INFORMATION:

Background

On January 3, 1994, a document was published in the **Federal Register** (59 FR 141) containing proposed amendments to the Customs Regulations setting forth uniform rules governing the determination of the country of origin of imported merchandise. The document solicited public comments that were to be received on or before April 4, 1994.

Customs has been requested to extend the period of time for comments in order to afford interested parties additional time to study the proposed regulations and prepare responsive comment. In view of the extensiveness and importance of the proposed regulations, Customs believes that the request for an extension of time should be granted. Accordingly, the period of time for the submission of comments is being extended to July 5, 1994.

Dated: March 3, 1994.

Stuart P. Seidel,

Acting Director, Office of Regulations and Rulings.

[FR Doc. 94–5528 Filed 3–9–94; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 924

Mississippi Regulatory Program Amendment; Revision of Program

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

ACTION: Proposed rule; reopening and extension of comment period on proposed amendment.

SUMMARY: OSM is announcing the receipt of corrections to a previously proposed amendment to the Mississippi regulatory program (hereinafter referred to as the Mississippi program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). By letter dated December 9, 1993 (Administrative Record No. MS–319), Mississippi submitted a proposed amendment which covered a wide variety of topics. This submittal constituted a complete rewrite of the Mississippi regulations in order to make them consistent with current Federal regulations and amended parts 100 through 265 of the Rules and Regulations for the Surface Mining of Coal in Mississippi.

Review by OSM indicated deficiencies in the proposed amendment of December 9, 1992, and OSM so advised the State of Mississippi. On February 17, 1994 (Administrative Record No. MS–322), Mississippi submitted a corrected amendment in order to remove these deficiencies by amending parts 101, 173, 174, 175, 178, 185, 200, 216, 217, 223, and 245 of the Rules and Regulations for the Surface Mining of Coal in Mississippi. The amendment is intended to revise the Mississippi program to be consistent with the Federal regulations. OSM is reopening the comment period to allow the public

sufficient time to consider and comment on the corrected amendment.

This document sets forth the times and locations that the Mississippi program and proposed corrections to the amendment to that program are available for public inspection, and the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received on or before 4 p.m. on April 11, 1994.

ADDRESSES: Written comments and requests for a hearing should be mailed or hand delivered to: Jesse Jackson, Jr., Director, Birmingham Field Office, at the address listed below. Copies of the Mississippi program, the proposed corrected amendment and all written comments received in response to this notice will be available for public review at the addresses listed below, Monday through Friday, 9 a.m. to 4 p.m., excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Birmingham Field Office.

Office of Surface Mining Reclamation and Enforcement, Birmingham Field Office, 135 Gemini Circle, suite 215, Homewood, AL 35209, Telephone: (205) 290–7282.

Mississippi Department of Environmental Quality, The Office of Geology, Mining and Reclamation, 2380 Highway 80 West, Jackson, MS 39209, Telephone: (601) 961–5500.

FOR FURTHER INFORMATION CONTACT: Jesse Jackson, Jr., Director, Birmingham Field Office, Telephone: (205) 290–7282.

SUPPLEMENTARY INFORMATION:

I. Background on the Mississippi Program.
II. Discussion of Amendment.
III. Public Comment Procedures.
IV. Procedural Determinations.

I. Background on the Mississippi Program

On September 4, 1980, the Secretary of the Interior unconditionally approved the Mississippi program. Information pertinent to the general background on the Mississippi program including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the September 4, 1980, **Federal Register** (45 FR 58520). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 924.10 and 924.16.

II. Discussion of Amendment

Since the time of approval of the Mississippi program in 1980, there have been changes to the program based on the fact that no mining was occurring in the State. However, in October 1988, due to some renewed interest in mining activity, Mississippi commenced to rewrite its regulations to conform with current Federal regulations. Since that time, Mississippi has made several information submittals of the rewritten regulation package to OSM. The December 9, 1992, formal submittal constituted a complete rewrite of the Mississippi regulations with changes to literally every section of the regulations. Due to the extensive nature of the rewrite, no attempt was made to identify changes made to each individual regulation. The sections proposed to be amended are parts 100 through 265 of the Rules and Regulations for the Surface Mining of Coal in Mississippi. The changes contained in the December 9, 1992, submittal were found to be deficient in a number of places. Consequently, the corrections to the amendment contained in the submittal of February 17, 1994, are too numerous and dispersed to attempt to identify individually, but pertain to parts 101, 173, 174, 175, 178, 185, 200, 216, 217, 223, and 245 of the Rules and Regulations for the Surface Mining of Coal in Mississippi.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the corrected amendment proposed by Mississippi satisfy the applicable program approval criteria of 30 CFR 732.15. If the corrected amendment is deemed adequate, it will become part of the Mississippi program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Birmingham Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

The Department of the Interior had conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730,731, and 732 have been met.

National Environment Policy Act

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

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior had determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 924

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 4, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94–5629 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 935

Ohio Regulatory Program; Revision of Administrative Rules

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing the receipt of proposed Program Amendment Number 65 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initiated by Ohio and is intended to update rule references and to make the Ohio program as effective as the corresponding Federal regulations. The amendment concerns the authority of successor agencies within the Ohio Department of Natural Resources and the availability of the Ohio's permit, inspection, and enforcement records to the public. This document sets forth the times and locations that the Ohio program and proposed amendment to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on April 11, 1994. If requested, a public hearing on the proposed amendment will be held at 1 p.m. on April 4, 1994. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on March 25, 1994. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendment, and all written comments received in response to this document will be available for public review at the locations listed below during normal business hours, Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 4480 Refugee Road, suite 201, Columbus, OH 43232. Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, OH 43224. Telephone: (614) 265–6675.

Each requester may receive, free of charge, one copy of the proposed amendment by contacting OSM's Columbus Field Office.

FOR FURTHER INFORMATION CONTACT: Richard J. Seibel, Director, Columbus Field Office, Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. General information on the Ohio program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendment

The Ohio Department of Natural Resources, Division of Reclamation (Ohio) submitted proposed Program Amendment Number 65 by letter dated February 23, 1994 (Administrative Record No. OH–1990). In this amendment, Ohio proposes to revise two rules in the Ohio Administrative Code (OAC) to correct outdated rule references and to adopt language similar to corresponding Federal regulations concerning the availability of documents for public review:

1. Corrected Rule Reference

OAC section 1501:13–1–05 establishes that, in the event of a consolidation or reorganization of offices within the Ohio Department of Natural Resources (ODNR), the OAC rules which now apply to the Division of Reclamation shall apply to and be the rules of any other Division or office which succeeds the Division of Reclamation as the administering agency for Ohio Revised Code Chapter 1513. Ohio is revising this rule to expand the specific references to the Division of Reclamation's rules to cover additional rules adopted by Ohio since OAC section 1501:13–1–05 was first promulgated.

2. Availability of Records

Ohio is revising OAC section 1501:13–1–10 paragraph (B) to provide additional ways that members of the public may review Ohio's permit, inspection, and enforcement documents. Local district offices of the ODNR, Division of Reclamation, shall maintain copies of all documents pertaining to the mining operations within the jurisdiction of the individual offices. If Ohio does not maintain a district office in the specific county of the mining operation, Ohio shall either:

(a) Make copies of all locally pertinent documents available for public inspection at that county's office of the county recorder or at that county's office of the Soil Conservation Service of the U.S. Department of Agriculture; or

(b) Post, at that county's office of the county recorder or at that county's office of the Soil Conservation Service, a description of the documents available for inspection and the procedure by which members of the public may request copies of these documents. At its own expense, Ohio will promptly provide copies of documents by mail upon request of any resident of the area of the mining operation.

As part of Program Amendment Number 65, Ohio provided a draft example of the public notice on availability of documents which Ohio would post at one of the two locations specified by OAC section 1501:13–1–10(B).

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendment proposed by Ohio satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the

person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. on March 25, 1994. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under **ADDRESSES** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each public meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

National Environmental Policy Act

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

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 4, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94–5627 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ17–1–6090; FRL–4847–9]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Air Pollution Control Division

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing to approve revisions to the Arizona State Implementation Plan (SIP) adopted by the Maricopa County Air Pollution Control Division (MCAPCD) on April 6, 1992 and November 16, 1992. The Arizona Department of Environmental Quality (DEQ) submitted these revisions to EPA on June 29, 1992 and February 4, 1993. The revisions concern MCAPCD's Rule 350, Storage of Organic Liquids at Bulk Plants and Terminals; Rule 351, Loading of Organic Liquids; Rule 352, Gasoline Delivery Vessels, and a new rule, Rule 337, Graphic Arts. These rules control volatile organic compound (VOC) emissions from printing materials, and from the storage, loading, and transport of organic liquids including gasoline. The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this notice of proposed rulemaking (NPR) will incorporate these rules into the federally approved SIP. EPA has evaluated each of these rules and is proposing to approve them under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: Comments must be received on or before April 11, 1994.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Chief, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012.

Maricopa County Air Pollution Control Division, 2406 South 24th Street, suite E–214, Phoenix, AZ 85034.

FOR FURTHER INFORMATION CONTACT: William Davis, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1183.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act), that included Maricopa County. 43 FR 8964, 40 CFR 81.303. On March 19, 1979, EPA changed the name and modified the geographic boundaries of the ozone nonattainment area of Maricopa Country to the Maricopa Association of Governments (MAG) Urban Planning Area. 44 FR 16391, 40 CFR 81.303. On February 24, 1984, EPA notified the Governor of Arizona, pursuant to section 110(a)(2)(H) of the pre-amended Act, that MCAPCD's portion of the Arizona SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call, 49 FR 18827, May 3, 1984). On May 26, 1988, EPA again notified the Governor of Arizona that MCAPCD's portion of the Arizona SIP was inadequate to attain and maintain the ozone standard and requested that deficiencies relating to VOC controls and the application of reasonably available control technology (RACT) in the existing SIP be corrected (EPA's second SIP-Call, 53 FR 34500, September 7, 1988). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient RACT rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amended guidance. [1] EPA's SIP-Calls used that guidance to indicate the necessary corrections for specific nonattainment areas. The MAG Urban Planning Area is classified as moderate [2]; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

The State of Arizona submitted several revised RACT rules for incorporation into its SIP on June 29, 1992 and February 4, 1993, including the rules being acted on in this document. This document addresses EPA's proposed action for MCAPCD's Rule 350, Storage of Organic Liquids at Bulk Plants and Terminals; Rule 351, Loading of Organic Liquids; Rule 352, Gasoline Delivery Vessels; and Rule 337, Graphic Arts. The submitted Rules 350, 351, and 337 were found to be complete on September 8, 1992, while Rule 352 was found to be complete on March 10, 1993, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V [3]. The rules are being proposed for approval into the SIP. Arizona's complete submittal of Rules 350, 351, and 337 satisfies the deficiency for which a finding of nonsubmittal, dated October 22, 1991, was made and stopped the sanctions clock. However, the Federal Implementation Plan (FIP) clock will not stop until EPA approves the rules.

Rules 350 and 351 control VOC emissions from the storage and loading of organic liquids including gasoline. Rule 352 controls VOC emissions from gasoline delivery tanks, while Rule 337 controls VOC emissions from graphic art materials, such as inks. VOCs contribute to the production of ground level ozone and smog. The rules were adopted as part of the division's efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Calls and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for these rules.

EPA Evaluation and Proposed Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 1. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTGs applicable to Rule 350 are: (1) CTG EPA–450/2–77–035, Control of Volatile Organic Emissions from Bulk Gasoline Plants; (2) CTG EPA–450/2–78–047, Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks, and (3) CTG EPA–450/2/77–036, Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks. The CTGs applicable to Rule 351 are: (1) CTG EPA–450/2–77–035, Control of Volatile Organic Emissions from Bulk Gasoline Plants; and (2) CTG EPA–450/2–77–026, Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals. The CTG document applicable to Rule 352 is CTG EPA 450/2–78–022, Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks. Finally, the documents which apply to Rule 337 are: (1) CTG EPA–450/2–78–033, Control of Volatile Organic Emissions from Existing Stationary Sources, Volume VIII: Graphic Arts–Rotogravure and Flexography; and (2) the document entitled "Recordkeeping Guidance Document for Surface Coating Operations and the Graphic Arts Industry" (EPA 340/1–88–003). Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 1. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

MCAPCD's Rule 350, Storage of Organic Liquids at Bulk Plants and

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[1] Among other things, the pre-amended guidance consists of those portions of the proposed post–1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[2] The MAG Urban Planning Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[3] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Terminals, includes the following significant changes from the current SIP:

1. Applicability of the rule is specific to storage of organic liquids.
2. A definitions section has been added.
3. Standards for floating roofs and requirements for seals and fabric of the roofs have been added.
4. Recordkeeping and inspection provisions have been added.
5. A compliance schedule with full compliance by 18 months has been added.
6. Provisions for records on stored liquids including their vapor pressures have been added.
7. Test methods for determining compliance have been added.

MCAPCD's Rule 351, Loading of Organic Liquids, includes the following significant changes from the current SIP:

1. A definitions section has been added.
2. Standards have been added limiting emissions to 0.29 pounds of VOC per 1,000 gallons of liquid transferred.
3. Operating, repair, and testing requirements have been added.
4. Exemption of tanks with liquids which were not for sale has been deleted. Recordkeeping provisions for other exempt tanks have been added.
5. Annual leak detection tests and monthly visual leak monitoring are now required, and the leak test method has been clarified.
6. A compliance schedule requiring full compliance within 18 months has been added.
7. Test methods for determining compliance with the emission limits and vapor pressure limits have been added.

MCAPCD's Rule 352, Gasoline Delivery Vessels, includes the following significant changes from the current SIP:

1. A definitions section has been added.
2. Standards for vapor tightness of the delivery vessels and test methods to use in the determination have been added.
3. Provisions for registering and identifying tanks which pass the vapor tightness test have been added.
4. Provisions for recordkeeping have also been added.

MCAPCD's Rule 337, Graphic Arts, is a new rule and contains the following significant standards: (1) VOC content of graphic art materials is limited to 2.5 lbs/gal; (2) overall control efficiency of 65% for noncompliant materials is required; and (3) graphic materials sold are required to be labeled with the VOC content. There are also provisions for monitoring and for recordkeeping and reporting.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MCAPCD's Rules 350, Storage of Organic Liquids at Bulk Plants and Terminals; 351, Loading of Organic Liquids; 352, Gasoline Delivery Vessels; and 337, Graphic Arts, are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry forbids EPA to base its actions concerning SIPs on such grounds. into the economic reasonableness of state action. The CAA Union *Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future notice will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 222) from the requirements of Section 3 of Executive Order 12291 for 2 years. The EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866 which superseded Executive Order 12291 on September 30, 1993.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 28, 1994.

Felicia Marcus,

Regional Administrator.

[FR Doc. 94–5615 Filed 3–9–94; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 417

[OCC–011–P]

RIN 0938–AE63

Medicare Program; Post-Contract Protections and Other Coordinated Care Issues

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend HCFA regulations to provide that—

- A health maintenance organization (HMO) or a competitive medical plan (CMP) that has a Medicare risk or cost contract with HCFA and that ceases to furnish services, for any reason, must provide, for enrollees who return to the fee-for-service payment system, protection against loss of coverage because of a preexisting condition exclusion clause in the enrollee's replacement Medicare supplement insurance policy.
- If the Medicare risk contract of an HMO or CMP is terminated, not renewed, or renewed with a reduced service area, all other Medicare risk-contracting organizations operating in any part of the service area must provide a 30-day special open

enrollment period for the benefit of the affected enrollees.

- All contracting HMOs and CMPs, and all health care prepayment plans (HCPPs), must furnish to Medicare beneficiaries at the time of application a signed copy of the enrollment application form.
- An HCPP must also meet all the other requirements that contracting HMOs and CMPs must meet in handling applications.
- These amendments would provide post-contract protections for Medicare enrollees of HMOs and CMPs that cease to provide services under a Medicare contract and would also strengthen the application procedures for HMOs, CMPs, and HCPPs. The first two amendments implement, respectively, section 4011 of the Omnibus Budget Reconciliation Act of 1987 and section 6206 of the Omnibus Budget Reconciliation Act of 1989.
- In addition, this proposed rule would provide that all HMOs and CMPs with risk contracts must submit their Adjusted Community Rate (ACR) proposals to HCFA not later than 60 days (rather than 45) days before the beginning of a contract period. The earlier submission date for the ACR proposals is necessary to provide more time for HCFA to review and evaluate the material.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m on May 9, 1994.

ADDRESSES: Mail comments (original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: OCC–011–P, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (original and three copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201, or room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207.

If comments concern information collection or recordkeeping requirements, please address a copy of comments to: Office of Management and Budget, Office of Information and Regulatory Affairs, room 3001, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron Eydt.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

In commenting, please refer to file code OCC–011–P. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m., (202) 690–7890.

FOR FURTHER INFORMATION CONTACT: Tracy Jensen, (202) 619–2158.

SUPPLEMENTARY INFORMATION:

I. Background

A. Health Maintenance Organizations and Competitive Medical Plans

Health maintenance organizations (HMOs) and competitive medical plans (CMPs) are entities that provide specified health care services, in a defined geographic area, to persons who are enrolled in the entities, in exchange for a predetermined, fixed, periodic premium payment. When these entities meet the requirements of section 1876(b) of the Social Security Act (the Act), they become eligible to contract with HCFA to provide and be paid for services furnished to Medicare enrollees. These entities may contract either on a "risk" basis or a "cost" basis.

When HMOs or CMPs contract with HCFA on a risk basis, HCFA makes advance monthly payments for each enrolled Medicare beneficiary, and there is no adjustment at the end of the contract year. The per capita rate of payment for each class of enrollees under a risk contract is equal to 95 percent of the Adjusted Average Per Capita Cost (AAPCC). The AAPCC is the actuarial estimate made by HCFA, before an organization's contract period, of what the average per capita cost to the Medicare program would be for each class of Medicare enrollees if they received covered services other than through the organization or another organization in the same geographic area. A class of Medicare enrollees is a grouping of an organization's Medicare enrollees that HCFA constructs on the basis of actuarial factors such as age, sex, Medicaid status, institutional status, and other relevant factors that have a significant effect on the use and costs of health care services.

HMOs or CMPs that contract to be paid on a cost basis also receive monthly advance payments. However, these payments are based on a general overall budget submitted by the HMO or CMP and are subject to an annual reconciliation so that payments cover the reasonable costs of the specific services that they actually provide to Medicare enrollees.

An HMO or CMP that contracts to be paid on a risk basis must provide to enrollees all Medicare Part A and Part B services (except hospice services) that are available to beneficiaries who reside in the geographic area served by the HMO or CMP. A Medicare beneficiary who enrolls in a risk HMO or CMP must obtain all services directly from or under arrangements made by the HMO or CMP. The HMO or CMP is financially responsible for emergency services and urgently needed services obtained from other sources while the beneficiary is traveling or temporarily outside the service area of that HMO or CMP.

An HMO or CMP that contracts with HCFA on a cost basis must offer the same Medicare services as a risk HMO or CMP. However, the cost plan enrollee may obtain any Medicare covered services outside the HMO or CMP and have those services paid for by Medicare intermediaries or carriers, subject to Medicare deductibles and coinsurance.

Initial contracts between HCFA and an HMO or CMP must be for at least 1 year, but not more than 23 months, and any contract renewal must be for a period of 1 year. A contract is renewed automatically unless HCFA or the HMO or CMP decides not to renew. If the HMO or CMP decides not to renew its contract, it must give written notice to HCFA at least 90 days before the end of the current contract period and notify each Medicare enrollee by mail at least 60 days before the end of the contract period. It must also provide 30 days notice to the general public by publishing an announcement in a local newspaper. If HCFA decides not to renew, it must provide like notice to the Medicare enrollees, the HMO or CMP, and the general public.

A contract can be terminated before its expiration by mutual consent or unilaterally by either party if certain conditions are present, generally if the other party fails to perform its obligations. The terminating party is responsible for making the necessary notifications.

Each Medicare beneficiary who wishes to enroll in an HMO or CMP is required to complete an enrollment application form. 42 CFR 417.430 controls the format and content of the enrollment application form and prescribes procedures for handling applications. However, it does not require the HMO or CMP to furnish the beneficiary with a copy of the executed application at the time of enrollment.

B. Health Care Prepayment Plans

A health care prepayment plan (HCPP) is a prepaid group medical plan that elects to receive Medicare payment

from HCFA for Part B services on a reasonable cost basis under section 1833(a)(1)(A) of the Act. The regulations concerning Medicare payment to HCPPs are located at 42 CFR part 417. Under § 417.800(b)(1), an organization wishing to participate in Medicare as an HCPP is required to enter into a written agreement with HCFA to furnish physicians' services, through employee physicians or contracting physicians, and to furnish other covered Part B services through Medicare qualified providers and suppliers. HCFA pays an HCPP directly for physician's services furnished to its Medicare enrollees through plan employees or contracting physicians, and for other Part B services furnished under arrangements with Medicare certified suppliers. Payment for Part B services furnished to an HCPP enrollee by a provider of services such as a hospital, as well as payment for any Part A services, is made directly to the provider.

Section 417.801 sets forth the requirements for written agreements between HCFA and an HCPP, but it contains no specific procedures concerning application by Medicare beneficiaries for enrollment in an HCPP.

II. Supplemental Exclusion Coverage Upon Termination of Contract

A. Current Policy

Under the Medicare fee-for-service payment system, beneficiaries are liable for deductible and coinsurance amounts associated with certain Medicare covered services. Beneficiaries may insure for some or all of these out-of-pocket expenses by purchasing a Medicare supplement policy, generally referred to as a Medigap policy, from a private insurance company. Medigap policies supplement Medicare coverage by reimbursing the beneficiary for some or all coinsurance expenses and may also reimburse for deductible expenses as well, depending on the terms of the policy. The Medigap policy may also pay for certain additional services or costs that are not covered by Medicare.

Medigap policies sometimes contain a preexisting condition exclusion clause, that is, a provision that the policy will not cover its share of expenses related to a preexisting condition, until a specified waiting period has elapsed. The waiting period for coverage of a preexisting condition may not exceed 6 months. The Medigap policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

In the HMO or CMP setting, HCFA makes a monthly payment directly to the HMO or CMP to cover all mandated Medicare benefits, less deductible and coinsurance amounts. The HMO or CMP is permitted to charge the beneficiary a premium or other amounts such as copayments in place of the regular Medicare deductible and coinsurance amounts. When Medicare beneficiaries enroll in an HMO or CMP, they are advised to cancel their Medigap insurance policy because the HMO or CMP supplemental coverage is similar to the coverage afforded by Medigap policies. In addition, if the enrollee did not cancel the Medigap policy, the HMO or CMP could be considered in violation of section 1882(d)(3)(A) of the Act, which makes it unlawful for a person to sell or issue a health insurance policy to any individual entitled to benefits under Part A or under Part B of Medicare with knowledge that the policy duplicates health benefits to which the individual is otherwise entitled.

If the HMO's or CMP's Medicare risk contract is terminated, not renewed, or renewed with a reduced service area, the affected Medicare enrollees would be transferred into the fee-for-service payment system unless they enroll in another HMO or CMP that is having an open enrollment. Beneficiaries who return to the fee-for-service system and apply for a Medigap policy could be subject to a waiting period of up to 6 months before preexisting conditions are covered. During the exclusion period, beneficiaries would have no coverage for payment of the coinsurance expenses, and possibly deductible expenses if the policy covered them, which are incurred as a result of preexisting conditions. The beneficiaries' only other alternative would be to purchase a policy with no waiting periods, if it were available, at a higher premium rate.

Prior to the enactment of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), Public Law 100–203, there was no statutory requirement that HMOs or CMPs terminating their contract with HCFA provide or arrange for terminated enrollees to obtain Medicare supplemental coverage without exclusion periods related to preexisting conditions. However, HCFA routinely requested that HMOs or CMPs arrange for such coverage, and all the HMOs or CMPs that terminated their contracts complied on a voluntary basis.

B. Legislation and Provisions of the Proposed Regulations

In order to protect Medicare enrollees from loss of supplemental coverage for illness resulting from conditions existing prior to the termination of their HMO or CMP coverage, section 4011 of OBRA '87 added section 1876(c)(3)(F) of the Act. Section 1876(c)(3)(F) states that each eligible organization that provides Medicare services under a contract must provide assurances to the Secretary that, in the event it ceases to provide such services, it will provide or arrange for supplemental coverage of Medicare benefits related to a preexisting condition with respect to any exclusion period, to all individuals enrolled with the entity who receive Medicare benefits for the lesser of 6 months or the duration of such period.

We propose to follow the standards for preexisting condition exclusion clauses developed by the National Association of Insurance Commissioners (NAIC), and contained in the "Model Regulation to Implement the NAIC Medicare Supplement Insurance Minimum Standards Model Act" (the NAIC model). All States regulate Medicare supplement insurance (Medigap) policy packages according to the NAIC model (57 FR 37487, August 21, 1992) standards which stipulate that preexisting condition exclusion clauses may be applied for a maximum of 6 months. This standard is consistent with the statutory requirement that the HMO or CMP provide supplemental exclusion coverage for a 6-month period, since the terminated enrollee may be precluded from obtaining such coverage when purchasing a Medigap policy on his or her own.

The NAIC model currently describes ten standard Medigap policies, all of which include the following core benefits: Part A coinsurance, Part B coinsurance, 100 percent of Medicare Part A eligible hospitalization expenses for 365 hospital days in addition to Medicare standard and lifetime reserve days, and the cost of the first 3 pints of blood each year. The ten policies range in price and benefits from A, which includes just the core benefits, to plan J, which contains the most comprehensive package of benefits. At this time, only three of the NAIC standard policies—Plans C, F, and J—contain the benefits that are determined to meet our definition of supplemental exclusion coverage, a definition which is derived from the beneficiary cost-sharing requirements for Part A and Part B as required under title XVIII. We define supplemental exclusion coverage to include the following benefits: The NAIC model core benefits as described above, Part A deductible, Part B deductible, and skilled nursing facility coinsurance.

In order to implement section 1876(c)(3)(F) of the Act, we propose

(§ 417.440(f)) to require that Medicare cost or risk-contracting HMOs or CMPs that cease to provide services are responsible for arranging supplemental coverage for a period of 6 months. This requirement would not apply when an HMO or CMP ceases to supply services to enrolled beneficiaries as a result of the beneficiaries' disenrollment under §§ 417.460 (a) or (b). As described below and under proposed § 417.440(f)(4), we propose to require the HMO or CMP to comply with one of the following supplemental coverage options:

(1) Make available to eligible beneficiaries one or more Medigap policies without a preexisting condition waiting period; or at the State-approved rate for the same policy with a preexisting condition waiting period; or

(2) Allow an eligible beneficiary to purchase a policy of his or her choice and

—Reimburse the beneficiary for all expenses related to a preexisting condition; or

—Arrange for provision of services related to a preexisting condition without beneficiary cost-sharing.

To exercise option one, we have determined that the most equitable standard for compliance with section 1876(c)(3)(F) is to require HMOs and CMPs with a Medicare contract that is terminated, not renewed, or renewed with a reduced service area, to offer former enrollees the least expensive NAIC model plan with benefits that meet the definition of supplemental exclusion coverage (plan C in most cases). Section 1876(c)(3)(F) of the Act requires coverage for "all individuals enrolled with the entity." Based on this language, we believe that Medicare enrollees who are under age 65 (that is, those eligible for Medicare because of disability or end stage renal disease) are intended to be covered by this regulation to the extent that a Medigap policy is available to them in the insurance marketplace. If a Medigap policy is not available, the proposed regulation would not apply, just as it would not apply to a Medicare enrollee over age 65 who chooses not to purchase a Medigap policy.

We do not believe that the statute requires supplemental exclusion coverage to include all benefits that might have been provided by the HMO or CMP in excess of those benefits mandated and covered by Medicare. Examples of benefits that need not be included as supplemental exclusion coverage under this proposed rule would be "additional benefits" or benefits not covered by Medicare but provided by the HMO or CMP for an additional payment by the enrollee, such as copayments for eyeglasses or hearing aids.

"Additional benefits" are benefits that are provided by a risk HMO or CMP to its Medicare enrollees in accordance with § 417.592 which stipulates that, if an eligible organization's Adjusted Community Rate (ACR) for services to enrolled beneficiaries is less than the average per capita rate of payment it receives from Medicare, the entire difference must be accounted for. This must be accomplished either through HCFA's reducing the payments to the HMO or CMP, or by the HMO's or CMP's provision of additional benefits not covered by Medicare to all beneficiaries enrolled under the risk contract, at no additional charge. These "additional benefits" are calculated separately for those enrolled in both Part A and Part B, and for those enrolled in Part B only.

Supplemental exclusion coverage would not apply to those beneficiaries who choose to enroll in another Medicare-contracting HMO or CMP because these organizations are not permitted to exclude preexisting conditions.

Since section 1876(c)(3)(F) of the Act states that an HMO or CMP may either "provide or arrange for" supplemental coverage, we propose to permit an eligible organization to make available to terminated enrollees the following options to comply with this statute: (1) It may arrange with a Medigap insurer to make available for purchase by each eligible beneficiary the least expensive State-approved Medigap policy that includes the benefits defined as supplemental exclusion coverage. The policy must waive any preexisting condition exclusion clause, and must be made available to the beneficiary at a premium rate approved by the State insurance commissioner for the same policy with a preexisting condition exclusion. This does not impose a requirement on the Medigap insurer to discount a premium. However, an HMO or CMP that chooses this option must guarantee that the Medigap policy offered to the former enrollees covers any preexisting condition related services at the same premium as a comparable package of benefits with a preexisting condition exclusion clause. This provision is consistent with what we believe to be Congressional intent to provide certain former enrollees of Medicare risk HMOs and CMPs with access to Medigap policies that do not discriminate on the basis of benefit or price.

(2) It may allow the former enrollee to purchase his or her own Medigap policy and—

- Reimburse the beneficiary for all of the Medicare deductible or coinsurance expenses for services that would have been covered by the Medigap policy but are not payable because of the existence of a preexisting condition exclusion clause; or
- Arrange for a physician or provider to furnish the actual services required as a result of the preexisting condition, with the HMO or CMP reimbursing the deductible and coinsurance amounts to the cooperating physician or provider on behalf of the former enrollee.

Section 1876(c)(3)(F) of the Act does not specifically refer to reductions in service area. However, that section requires supplemental exclusion coverage "in the event the organization ceases to provide * * * items and services" under a Medicare contract. HCFA interprets this phrase to apply to beneficiaries who are disenrolled due to a contract termination or a reduction in the service area. The phrase does not apply to reduction in benefits as provided in § 417.440 or to disenrollments under §§ 417.460 (a) or (b).

We considered permitting the HMO or CMP to satisfy this requirement by making available any State-approved Medigap policy, regardless of the benefit level. This option would give the HMO or CMP more flexibility in making arrangements for supplemental exclusion coverage and it would still provide the beneficiary with access to the Medigap market. However, since the NAIC model describes policies with several different levels of coverage, some conforming policies would not provide enrollees with coverage comparable to what they had with the HMO or CMP. We have decided to require the HMO or CMP to offer the least expensive policy that will comply with the supplemental exclusion coverage required under section 1876(c)(3)(F) of the Act. Additional policies may also be offered at a higher premium rate, as long as the policy includes the defined supplemental exclusion coverage benefits, at the State-approved premium rate for the same policy with a preexisting condition exclusion clause.

In summary, we propose to amend § 417.440(e) to require a risk or cost HMO or CMP whose contract with HCFA is terminated, not renewed, or renewed with a reduced service area, to offer affected Medicare enrollees who do not enroll in another Medicare contracting HMO or CMP, protection against out-of-pocket expenses because

of a Medigap preexisting condition exclusion clause, in accordance with the requirements in proposed § 417.440(f). Under proposed § 417.440(f), we would require that the HMO or CMP provide at least one of the following options to former enrollees for the lesser of 6 months after termination of enrollment or the duration of a Medigap insurance policy exclusion period:

- Make available for purchase by each former enrollee one or more State-approved Medicare supplement policies that waive the preexisting condition exclusion clause, at the premium rate approved by the State insurance commissioner for the same policy with such a clause. At least one of the policies must cover all of the expenses specified as supplemental exclusion coverage benefits at the lowest premium available in the area.
- Allow the former enrollee to obtain his or her own Medigap policy. If the policy imposes a preexisting condition exclusion clause, the HMO or CMP would be required to

—Reimburse the former enrollee for any benefits defined as supplemental exclusion coverage for services that would have been covered by the Medigap policy but for a preexisting condition exclusion clause; or

—Arrange for a physician or provider to furnish the actual services related to the preexisting condition, with the HMO or CMP reimbursing the deductible and insurance amounts to the cooperating physician or provider on behalf of the former enrollee.

We propose to add a new § 417.541 to clarify that an HMO or CMP with a cost contract may not claim reimbursement for costs related to furnishing of the supplemental exclusion coverage required by the proposed § 417.440(f).

We also propose to revise §§ 417.492 and 417.494 to require that an HMO or CMP whose contract with HCFA is terminated, not renewed, or modified with a reduced service area comply with § 417.440(e) regarding the provision of supplemental exclusion coverage for their affected Medicare enrollees and § 417.488 regarding the delivery of the appropriate notices to affected enrollees by risk HMOs or CMPs. In addition, we propose to revise § 417.440(e) in order to clarify that inpatient hospital services would no longer be the only covered services that must be provided beyond the date of disenrollment. This rule would require that, under certain circumstances, supplemental exclusion coverage must be provided after the date of disenrollment. In addition, all covered hospital and medical expenses incurred before the date of termination must be paid by the HMO or CMP.

III. Immediate Open Enrollment for Risk HMOs or CMPs

A. Current Policy

Before passage of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101–239, there was no specific statutory requirement that a risk HMO or CMP that continued to operate in an area in which the contract of another risk HMO or CMP had been terminated, not renewed, or renewed with a reduced service area, enroll those Medicare beneficiaries who lost their prepaid health care coverage under the terminated contract. However, HCFA did require at § 417.488 that the notice sent to enrollees advising them of their pending disenrollment, include a listing of other risk HMOs or CMPs operating in the service area. Also, there was no requirement that an HMO or CMP that continued to contract with HCFA hold an open enrollment at any time other than the annual 30-day period mandated by section 1876(c)(A)(i) of the Act. Thus, Medicare beneficiaries who had been enrolled in the discontinued HMO or CMP had no alternative but to return to the fee-for-service payment system if no other HMO or CMP in the area was permitting new enrollment at the time of their termination.

B. Legislation

Section 6206(b)(1)(B) of OBRA '89 amended section 1876(c)(3)(A)(ii) of the Act to require that if a risk contract is not renewed, is otherwise terminated, or is renewed with a reduced service area, a special open enrollment period for the terminated enrollees must be held by all other risk HMOs or CMPs operating in the same service area. This special open enrollment period must be for 30 days and must begin 30 days after the date on which HCFA mails notice to the affected risk HMOs or CMPs informing them of their responsibility under section 1876(c)(3)(A)(ii) of the Act. This period is only required to be open to those individuals enrolled under the terminated contract as of the date of termination.

If the special open enrollment period coincides with the annual open enrollment period, the applications of all Medicare beneficiaries will be accepted in the order of application. We have considered giving precedence to the enrollees affected by the termination over new Medicare beneficiary applicants in cases where the enrollment periods do coincide. However, section 1876(c)(3)(A)(i) of the Act prohibits the HMO or CMP from restricting eligible beneficiaries' enrollment during open enrollment periods and we do not believe that section 1876(c)(3)(A)(ii) allows us to waive this requirement. The special open enrollment period must be conducted in accordance with all of the requirements of § 417.426, applicable to annual open enrollments. Enrollment becomes effective 30 days after the end of the special open enrollment period, or if HCFA determines that such a date is not feasible, such other date as HCFA specifies.

C. Provisions of This Proposed Rule

Based on the provisions of section 1876(c)(3)(A)(ii) of the Act, as amended by section 6206 of OBRA '89, we are proposing to add a new § 417.426(d) to provide that:

- HMOs or CMPs with risk contracts that serve a part of the same service area as an HMO or CMP whose risk contract is terminated, not renewed, or renewed with a reduced service area, for any reason, must provide a special open enrollment period for individuals enrolled under the terminated or revised contract.
- The special open enrollment period would be 30 days in duration and would begin 30 days after the date on which HCFA mails notice to the affected HMOs or CMPs informing them of their responsibility to hold a special open enrollment period.
- Coverage would become effective 30 days after the end of the special open enrollment period unless HCFA specifies a different effective date.
- This special open enrollment period may be in addition to, or coincide with, any annual open enrollment which the HMO or CMP is required to hold under § 417.426.
- The special open enrollment period must comply with the requirements of § 417.426.

We are also proposing to amend § 417.488 to require that, upon termination, nonrenewal, or reduction in the service area of a risk contract with HCFA, the HMO or CMP must provide to all of its former Medicare enrollees a list of the other risk HMOs and CMPs that are still operating in the service area, and a description of the special open enrollment period.

IV. Documentation of Enrollment for Medicare Enrollees of HMOs, CMPs, and HCPPs

A. Current Policy

Section 1876(c)(3)(C) of the Act provides that the Secretary may prescribe the procedures and conditions under which an HMO or CMP may inform eligible Medicare beneficiaries about the organization, or may enroll those beneficiaries. Under

§ 417.422(a)(4), each Medicare beneficiary requesting enrollment is required to complete an enrollment application form. Under § 417.430(a)(1), this form must contain the beneficiary's signature, an authorization for disclosure and exchange of information between HCFA and the HMO or CMP and must comply with HCFA instructions regarding format and content. For risk HMOs and CMPs, the application form must include a notice explaining that the applicant may only obtain services from within the health care delivery system of the organization, except for emergency care or urgent care out of the service area. This notice must contain a statement detailing the enrollee's liability for non-covered services and for out-of-plan services when not authorized by a physician or official of the risk HMO or CMP.

Current regulations at § 417.430 prescribe the application processing requirements, including a requirement at § 417.430(b)(3) that the HMO or CMP promptly notify an applicant of acceptance or denial of an application. However, there is no requirement that an HMO or CMP furnish to the applicant a copy of the enrollment application form, signed by the beneficiary and a representative of the HMO or CMP, at the time that the application is taken. Because there is generally a 30-day lag time between the date on which the beneficiary files an application and the date that the HMO or CMP sends the notification of enrollment (which contains the rules that enrollees must follow), many Medicare enrollees are not fully informed of the requirements of the plan, especially the limitations on out of plan services. Moreover, our experience in the administration of the prepaid health care programs has demonstrated that a certain number of Medicare beneficiaries do not fully understand the restrictions that apply to enrollment in an HMO or CMP. As a result, they may continue to obtain services after the effective date of their enrollment from sources outside the HMO or CMP and then find that they are liable for payment for these services. Therefore, we believe that reinforcement of the rules and obligations inherent in an HMO or CMP enrollment is appropriate.

It has been our policy to recommend that an HMO or CMP give a signed copy of the enrollment application to Medicare beneficiaries who apply for enrollment. However, this has been merely a recommendation and voluntary compliance has been sporadic. Because some Medicare beneficiaries may have difficulty fully understanding the HMO's or the CMP's rules and procedures, we believe that the enrollment application form should be presented to the enrollee on a mandatory basis, immediately after the actual signing. We believe that this additional step would strengthen our current enrollment procedures and significantly lower the number of disenrollments resulting from misunderstandings by enrollees. In addition, the presentation of the signed application form would also provide the prospective enrollee with in-hand documentation of intent to enroll in the HMO or CMP.

There are no current regulations governing application procedures for enrollment in an HCPP. Thus, a Medicare beneficiary's application for membership might not be accepted in the order of application, or the beneficiary may never be notified in writing of the acceptance or denial of the application. In order to prevent potential problems, we are proposing to require HCPPs to utilize the same enrollment application procedures that HMOs and CMPs utilize.

Since HCPPs are similar in organization to HMOs and the payment basis specified in the Act for HCPPs and cost-based HMOs is similar, we believe it would be appropriate to apply to HCPPs the same application procedures required for enrollment in cost-based HMOs. This proposed change would increase the uniformity of the application format and procedures for HCPPs and ensure that HCPPs have an effective system for receiving and processing applications from Medicare beneficiaries.

B. Provisions of This Proposed Rule

We propose to amend § 417.430 by adding a provision that would require each HMO or CMP to provide Medicare enrollees with a copy of the application form signed by the applicant and a representative of the HMO or CMP at the time the form is taken. In cases where the applicant submits the application by mail, the plan must furnish a copy to the applicant within 5 working days of receipt. In addition, we propose to amend § 417.801 to require that HCPPs comply with the requirements of § 417.430, that is, meet the same enrollment application procedures as contracting HMOs and CMPs. These procedures—

- Specify that a contracting HMO or CMP must comply with HCFA instructions concerning content of application forms;
- Require that a contracting HMO or CMP have an effective system for receiving, controlling and processing applications from Medicare beneficiaries; and
- Prescribe the details of an effective system for handling applications.

V. Adjusted Community Rate Proposal

A. Current Policy

Section 1876(a)(1)(A) of the Act requires that HCFA provide risk HMOs or CMPs with the per capita rates of payment for each class of Medicare enrollees no later than September 7 before the calendar year in which the rates take effect. Regulations at §§ 417.590 through 417.598 specify how eligible organizations use the HCFA payment rates in determining their new premium rates and benefits for the coming year. Section 417.592(d)(1) requires that an HMO or CMP provide HCFA with this rate and benefit information not later than 45 days before the beginning of its contract period. The package of materials that an organization submits is called the Adjusted Community Rate Proposal. HMOs or CMPs generally wait until November 15 (the current deadline) to submit their adjusted community rates (ACRs) after receiving the per capita rates from HCFA. This effectively leaves 45 days for HCFA to review and approve, or disapprove, the ACRs from all risk HMOs or CMPs that contract with the agency. In November and December of 1986, 1987, 1988, and 1989, HCFA accountants reviewed 139, 133, 135, and 107 ACRs, respectively, within the 45-day period.

The review process involves the actuarial examination of proposed payment rates, which is a complex, time consuming operation. Over time, HCFA has found the 45-day period to be insufficient for allowing agency personnel to perform a thorough and adequate review of ACRs and to carry out necessary followup activities. For example, most ACRs contain errors. HCFA staff must detect these errors and contact the HMO or CMP to resolve the errors. Often HCFA requests that the HMO or CMP submit additional materials for review. In addition, program growth (in total number of Medicare beneficiaries served), and maturation of the coordinated care industry has led to the development of more sophisticated ACRs, resulting in the need to devote additional time to the review of plan materials.

Following the review and approval by HCFA of an organization's ACR, the HMO or CMP must inform current enrollees of the new benefit package and rate changes for the coming contract year. This enrollee notification must occur 30 days before the effective date

of the change. If the ACR has not been approved 30 days before the effective date, HCFA may allow the HMO or CMP to advertise the new benefit package. However, the advertisement must indicate that the announced rates are subject to approval by HCFA.

B. Provision of This Proposed Rule

We propose to revise § 417.592(d)(1) to require that each risk HMO or CMP submit its proposed ACR at least 60 days prior to the beginning of a contract period. This change would provide HCFA with an additional 15 days to review and approve or disapprove the proposed ACRs.

A change in the deadline for submission of proposed ACRs from 45 to 60 days before the beginning of a contract period would allow HCFA additional time to evaluate the ACRs, particularly in cases in which HCFA requests that the HMO or CMP provide supplemental documentation. The additional time also would permit a more thorough review of the proposals, reducing the potential for review errors. Making the deadline for submission of ACR proposals earlier would also help to ensure that enrollees have adequate notification of any contract changes in a timely manner.

VI. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the **DATES** section of this preamble, and we will respond to the comments in the preamble of the final rule that is issued.

VII. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities.

The RFA defines "small entity" as a small business, a nonprofit enterprise, or a governmental jurisdiction (such as a county, city, or township) with a population of less than 50,000. We consider all HMOs, CMPs, and HCPPs to be small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

There are currently 98 HMOs and CMPs that contract with HCFA to provide services on a risk basis to Medicare beneficiaries. Only 3 percent of all Medicare beneficiaries are enrolled under these risk contracting plans. During the last fiscal year, eight risk-contracting HMOs and/or CMPs ceased providing services to beneficiaries on a risk basis. According to these data, the number of impacted small entities is very low.

We have determined and the Secretary certifies that this proposed rule will not have a significant effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the RFA and a rural impact analysis under section 1102(b) of the Act are not required.

In accordance with the provisions of Executive Order 12866, this proposed rule was not reviewed by the Office of Management and Budget.

VIII. Information Collection Requirements

Section 417.430 of this proposed rule contains information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

We have submitted this rule to the OMB for review. The information collection requirements concern personal information supplied by Medicare beneficiaries who are applying for membership in HCPPs. Public reporting burden for this collection of information is estimated to be ½ hour per application. A notice will be published in the **Federal Register** when approval is obtained.

List of Subjects in 42 CFR Part 417

Administrative practice and procedures, Health maintenance organizations (HMO), Medicare, Reporting and recordkeeping requirements.

42 CFR part 417 would be amended as set forth below:

PART 417—HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS

1. The authority citation for part 417 continues to read as follows:

Authority: Secs. 1102, 1833(a)(1)(A), 1861(s)(2)(H), 1866(a), 1871, 1874, and 1876 of the Social Security Act (42 U.S.C. 1302, 13951(a)(1)(A), 1395x(s)(2)(H), 1395cc(a), 1395hh, 1395kk, and 1395mm); sec. 114(c) of Pub. L. 972–248 (42 U.S.C. 1395mm note); 31 U.S.C. 9701 and secs. 215 and 1301 through 1318 of the Public Health Service Act (42 U.S.C. 216 and 300e through 300e-17), unless otherwise noted.

2. Section 417.426 is amended by adding a new paragraph (d) to read as follows:

§ 417.426 Open enrollment requirements.

* * * * *

(d) *Special open enrollment.* (1) If an HMO's or a CMP's risk contract is terminated, not renewed, or renewed with a reduced service area, all other HMOs or CMPs with risk contracts operating in the same service area must hold a special open enrollment period for the benefit of those Medicare enrollees whose enrollment in the HMO or CMP ends when the contract is terminated or modified.

(2) The special open enrollment period must be 30 days in duration and begin 30 days after the date on which HCFA mails notice to the affected HMOs or CMPs, informing them of their responsibility under this section.

(3) Enrollment is effective 30 days after the end of the special enrollment period or, if HCFA determines that date is not feasible, some other date that HCFA specifies.

(4) The special open enrollment period is in addition to, unless it coincides with, the annual open enrollment period required under paragraph (a) of this section.

(5) The special open enrollment period must be held in accordance with all of the requirements applicable to annual open enrollments under paragraphs (a) through (c) of this section.

3. In § 417.430, the introductory text of paragraph (b), and paragraph (b)(3) are revised to read as follows:

§ 417.430 Application procedures.

* * * * *

(b) *Handling of applications.* An HMO or CMP must have an effective system for receiving, controlling, and processing applications from Medicare beneficiaries. The system must meet the following conditions and requirements:

* * * * *

(3) The HMO or CMP—

(i) Provides the applicant with a copy of the enrollment application form signed by the applicant and a representative of the HMO or CMP either when the application is taken, or, if the application is submitted by mail, within 5 working days of receipt; and

(ii) Gives the beneficiary prompt written notice of acceptance or denial of the application.

* * * * *

4. In § 417.440, the section heading and paragraph (e) are revised, and a new paragraph (f) is added to read as follows:

§ 417.440 Entitlement to health care services from an HMO or CMP.

* * * * *

(e) *Financial responsibilities of an HMO or CMP after the effective date of disenrollment of a Medicare enrollee*—(1) *Inpatient hospital care.* If a Medicare beneficiary's effective date of disenrollment occurs during an inpatient stay in a hospital paid under part 412 of this chapter and the HMO or CMP is financially responsible for the hospitalization, either because it arranged for the stay or, as provided under paragraph (a)(2) of this section, the financial responsibility for inpatient services continues through the date the beneficiary is discharged from the inpatient stay

(2) *Payment of outstanding bills.* The HMO or CMP must pay for services furnished before the effective date of the contract termination or modification if the HMO or CMP would have been financially responsible for those services under the Medicare contract.

(3) *Protection against preexisting condition exclusions in Medicare supplement policies.* For beneficiaries who are disenrolled because the Medicare contract is terminated or renewed with a reduced service area, the HMO or CMP must comply with the requirements of paragraph (f) of this section.

(f) *Supplemental exclusion coverage*—(1) *Definition.* For the purposes of this section, supplemental exclusion coverage means payment for certain expenses incurred by a beneficiary for health care services related to a condition that exists at the time the beneficiary is disenrolled from a Medicare-contracting HMO or CMP according to paragraphs (f)(2) and (f)(3) of this section. Expenses included in supplemental exclusion coverage are Part A and Part B deductibles and coinsurance, SNF coinsurance, 100 percent of Medicare eligible Part A hospitalization expenses for 365 lifetime days after all Medicare hospital days (including lifetime reserve days) have been exhausted, and the annual cost of three pints of blood.

(2) *Basic rule.* An HMO or CMP that ceases to provide health care services under a Medicare contract, or reduces its service area, must provide or arrange for supplemental exclusion coverage for any Medicare enrollee who—

(i) Is disenrolled as a result of the cessation of services;

(ii) Does not enroll in another Medicare-contracting HMO or CMP; and

(iii) Would become liable for Medicare deductibles and coinsurance because he or she is unable to purchase a Medicare supplement policy without a waiting period for preexisting conditions.

(3) *Duration of coverage.* Supplemental exclusion coverage must extend for 6 months after the termination or modification of the contract, or for the duration of any preexisting condition exclusion period imposed by the Medicare supplement policy, whichever is less.

(4) *Methods of providing supplemental exclusion coverage.* To fulfill the supplemental exclusion coverage required under paragraph (f)(2) of this section, an HMO or CMP must select at least one of the following options: (i) Make available for purchase by each of its terminated Medicare enrollees, one or more State-approved Medicare supplement insurance policies that waive the preexisting condition exclusion clause, at the premium rate approved by the State Insurance Commissioner for the same policy with a preexisting condition exclusion clause. At least one of these policies must cover all of the expenses specified in § 417.440(f)(1) of this section, at the lowest premium available in the area.

(ii) Allow each former Medicare enrollee to purchase the Medicare supplement policy of his or her choice and, if that policy includes a preexisting condition exclusion clause, provide protection through either of the following:

(A) Reimburse the former enrollee for all Medicare deductible and coinsurance expenses that are required to be paid under supplemental exclusion coverage as specified in paragraph (f)(1) of this section that are not payable by the Medicare supplement policy because of a preexisting condition exclusion clause.

(B) Arrange for a physician or provider to furnish the services required as a result of the preexisting condition. The HMO or CMP must reimburse all deductible and coinsurance expenses identified as supplemental exclusion coverage and incurred for services provided in accordance with § 417.440(e)(3) to the cooperating physician or provider on behalf of the former enrollee.

5. In § 417.488, the introductory text is revised; and new paragraphs (c) and (d) are added to read as follows:

§ 417.488 Written notice of termination.

A risk contract must provide that if, for any reason, the contract is terminated, not renewed, or renewed with a reduced service area, the HMO or CMP agrees to provide to its affected Medicare enrollees, and to be responsible for the cost of, the following notices:

* * * * *

(c) A list of all HMOs or CMPs with risk contracts that operate in the same service area and that must hold a special open enrollment for the affected Medicare enrollees, as required by § 417.426(d).

(d) A description of the special open enrollment process.

6. In § 417.492, a new paragraph (c) is added to read as follows:

§ 417.492 Nonrenewal of contract.

* * * * *

(c) *Supplemental exclusion coverage after nonrenewal by either HCFA or the HMO or CMP.* If either HCFA or an HMO or CMP decides, for any reason, not to renew the contract, the HMO or CMP must provide supplemental exclusion coverage, as required under § 417.440(f) for each Medicare enrollee whose coverage with the HMO or CMP will terminate. In addition, each HMO or CMP with a risk contract must provide the written notices required under § 417.488.

7. In § 417.494, a new paragraph (d) is added to read as follows:

§ 417.494 Modification or termination of contract.

* * * * *

(d) *Supplemental exclusion coverage after modification or termination by either HCFA or the HMO or CMP.* If either HCFA or an HMO or CMP, for any reason, terminates the contract or modifies it in such a manner that the service area is reduced, the HMO or CMP must provide supplemental exclusion coverage as required under § 417.440(f) for each Medicare enrollee whose coverage with the HMO or CMP will terminate. In addition, each HMO or CMP with a risk contract must provide the written notices required under § 417.488.

8. A new § 417.541 is added to read as follows:

§ 417.541 Supplemental exclusion coverage costs.

Costs incurred by an organization for furnishing the supplemental exclusion coverage as required by § 417.440(f) are not allowable.

9. In § 417.592, paragraph (d)(1) is revised to read as follows:

§ 417.592 Determination of required additional benefits.

* * * * *

(d) *Notification to HCFA.* (1) The HMO or CMP must notify HCFA, not later than 60 days before the beginning of the contract period, of its ACR and its weighted average of its per capita rates of payment (as computed under § 417.590) for the contract period.

* * * * *

10. In § 417.801, the introductory text of paragraph (b) is republished; paragraph (b)(6) is redesignated as paragraph (b)(7); and a new paragraph (b)(6) is added to read as follows:

§ 417.801 Agreements between HCFA and health care prepayment plans.

* * * * *

(b) *Terms.* The agreement must provide that the HCPP agrees to—

* * * * *

(6) Comply with the application procedures set forth in § 417.430.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 2, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: November 9, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 94–5327 Filed 3–9–94; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 215

[Docket No. RSFC–7, Notice 1]

Freight Car Safety Standards; Maintenance-of-Way Equipment

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: FRA is proposing in this document to amend the Freight Car Safety Standards by making all maintenance-of-way vehicles subject to the Standards with the exception of stenciled cars not used in revenue service and restricted to a speed of less than 20 miles per hour. This proposal would add to the present regulation an additional condition which must be met before a freight car in maintenance-of-way service can be operated without complying with the Freight Car Safety Standards: the equipment must be operated at a speed of less than 20 mph.

DATES: Written comments must be received no later than April 11, 1994. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

ADDRESSES: Written comments should be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590. Persons desiring to be notified that their written comments have been received should submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate the date on which the comments were received and will return the postcard to the addressee. Written comments will be available for examination during regular business hours in room 8201 of the Nassif Building located at the above address.

FOR FURTHER INFORMATION CONTACT: Phil Olekszyk, Deputy Associate Administrator, Office of Safety, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 (telephone: 202–366–4094), or Kyle M. Mulhall, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 (telephone: 202–366–0628).

SUPPLEMENTARY INFORMATION: FRA proposes to revise its Freight Car Safety Standards to make all maintenance-of-way vehicles subject to these Standards with the exception of any stenciled maintenance-of-way car operated at a speed less than 20 miles per hour and not used in revenue service.

The Freight Car Safety Standards, at 49 CFR 215.3(c)(3), excluded maintenance-of-way equipment from the requirements of Part 215, "if that equipment is not used in revenue service and is stenciled in accordance with section 215.305."

When it revised these rules in 1979, FRA proposed that equipment used exclusively in work train service be excluded from the requirement of the proposed rules (44 FR 1419). The theory of this proposal was that if a car were limited to work train service, with its slow speed and low mileage operations, safety considerations would not necessitate bringing the car up to the same maintenance levels needed for safe high speed mainline revenue service cars. All other equipment would be included.

Commenters urged that FRA not adopt the proposal. They indicated that having to confine such equipment to work train service would impose such stringent operational restrictions as to effectively force railroads to replace between 200 and 3,000 cars at a cost of about $30,000 each. It was asserted that these costs were not required from a safety standpoint, since there were no accidents attributable to such equipment.

FRA accepted the commenters' arguments on the theory that since cars in work train service are not freely interchanged and each railroad knows the condition of its own cars, an appropriate level of operational constraint, tailored to a particular car's condition, can be effectively imposed by individual railroads. FRA concluded that, if such cars were excluded from revenue service and were identified by reporting marks stenciled on the equipment, compliance with the regulation was not necessary from a safety standpoint. Accordingly, in adopting the revised regulation in 1979, FRA made the Freight Car Safety Standards inapplicable to any freight car that is "maintenance-of-way" equipment provided that it is not used in revenue service and is marked to indicate its status. FRA did not specifically prohibit use of non-complying maintenance-of-way equipment in revenue trains, only that it be excluded from revenue service.

By proceeding in this manner there was no need to define what constitutes maintenance-of-way equipment. In the absence of such a regulatory definition, the railroad industry has identified as "maintenance-of-way" cars an extensive group of company service cars when that equipment does not directly produce revenue for the railroad. Typical examples of this broad variety of freight cars include flat cars assigned to move railroad wheels, hopper cars in ballast service, covered hoppers in locomotive sand service, tank cars in locomotive fuel service, and box cars designated as mobile warehouses and containing a wide variety of supplies needed by the railroad in its daily operations. The designation of such cars as "maintenance-of-way" equipment is a departure from a historical industry practice that reserved this designation only for cars assigned to the railroad's engineering departments. These cars were used only in limited service to repair or maintain the track, bridge, and signal installations owned by the railroad and were largely of unique designs tailored to perform a specific function.

Although the Freight Car Safety Standards have not generally applied to "maintenance-of-way equipment," FRA's Safety Appliance and Power

Brake rules do apply to this equipment. Thus, the condition of such cars has been monitored as part of FRA's overall compliance program. In addition, during a special inspection effort in February 1983, FRA inspected 2,849 cars stenciled as "maintenance-of-way" cars. Two hundred twenty three (7.8%) had safety appliance violations and 518 (18.2%) had power brake violations. In addition, of 677 cars inspected for potential compliance with the freight car safety standards, 224 (33%) were found with defects that would have been violations of these standards. Effective remedial action was taken by the individual railroads in each instance, but the need for continued review was underscored by a significant accident that occurred on July 18, 1983 at Crystal City, Missouri.

Investigation of that accident indicated that the derailed train was operating at a normal speed for a revenue freight train despite the presence of 17 hopper cars in "maintenance-of-way" service, all of which were in a deteriorated condition. A cracked and displaced centerplate was present under one of these cars and is believed to have been a major contributing cause to the accident.

During another extensive effort in 1984, FRA inspected 3,933 maintenance-of-way cars, finding fewer non-complying conditions: Approximately 279 safety appliance violations (7%), 439 power brake violations (11.2%), and 823 defects that would have been freight car safety violations (20.9%) if these cars were required to comply with the freight car standards. In 1986, a third inspection survey of 25% of the nation's fleet of these cars revealed 700 safety appliance (7%) and 878 power brake (8.8%) violations, and 1,730 defects that would have been freight car safety violations (17.2%).

Several salient facts emerge from FRA's monitoring effort. Although each successive inspection has found that the percentage of cars with safety problems has decreased, the percentage of cars found with safety problems remains significantly higher for this group of cars than for the national fleet. In all instances, the railroads have taken remedial action once the non-complying conditions have been identified. However, after repairing a defective car on a repair track, railroads often elect to place the car back in service without correcting conditions that are substandard according to the freight car standards. For example, a car shopped for repair of a brake defect may be sent back into service without attention being given to broken and missing truck springs, despite the obvious and serious nature of that condition. Railroads differ as to whether to impose operational constraints on this type of equipment or limit speed or train makeup. For instance, FRA has observed ballast cars with both broken centerplates and broken or missing truck springs placed in a relatively high-speed revenue train and coupled to a car containing hazardous materials. Nothing in current FRA regulations prevents this from happening. Similarly, ample evidence emerged that these cars are being interchanged among railroads fairly extensively.

To identify the role that these cars may play in causing accidents, FRA has reviewed its accident data to find accidents caused by freight cars that were in "maintenance-of-way" service and to isolate those that can be attributed to conditions that would constitute noncompliance with the Freight Car Safety Standards. FRA has isolated 26 accidents involving maintenance-of-way cars between January 1, 1980 and July 1, 1987 in which defective components, which would otherwise have been regulated by these standards, were the probable cause of the accident.

These accidents resulted in property damage exceeding $1 million. Because of data limitations regarding identification of maintenance-of-way cars, the study could not include any maintenance-of-way cars entering the fleet since 1984. That limitation, together with the fact that our field inspection forces report increasing observation of such cars used in revenue trains, leads to the conclusion that the risk is substantial today and likely to grow in the future.

One further reason for concern relates to a recent change in industry requirements regarding cars with friction bearings. The Association of American Railroads (AAR) has changed its field manual of interchange rules, effective January 1, 1994, to require that "all cars must be equipped with journal roller bearings and may not be equipped with friction (plain) bearings." AAR Interchange Rule 88, Item 17(b). Although this change does not specifically address MOW equipment, the majority of these cars are equipped with friction bearings. The AAR prohibition of interchanging cars equipped with friction bearings will greatly reduce the the number of locations on the railroads where personnel are capable of performing frequent inspections of the bearing components and application of lubrication. Reduced inspection could lead to increases in journal burn offs, hot boxes, and derailments.

In summary, several factors call into question FRA's prior decision not to bring company-service-type equipment under the Freight Car Safety Standards: The increasing size of the "maintenance-of-way" car fleet; carrier decisions to minimize the level of repair work being performed on these cars rather than to voluntarily improve their general condition; fewer operational constraints for this fleet; and an accident history attributable to these cars. But the strongest argument for this proposal is simple common sense. FRA has required every car moving in a revenue service train to meet certain safety standards because it recognizes that equipment failure on a single car can derail an entire train. This is as true of maintenance-of-way vehicles as it is with any other type of car. Exempting maintenance-of-way vehicles from the freight car safety standards and allowing them to move at high speeds in trains which often carry hazardous materials does not appear logical in safety terms. This exemption appears to have contributed to at least 26 accidents, and mere chance appears to be responsible for the fact that none of these accidents produced catastrophic consequences. Because we do not believe that public safety can continue to be predicated on luck, FRA is proposing to remove this anomaly from the freight car safety standards.

The Proposed Rule

FRA proposes to revise § 215.3(c)(3) to exclude from the application of the Freight Car Safety Standards freight cars assigned to maintenance-of-way service only if that equipment is: (1) Not used in revenue service; (2) operated at a speed of less than 20 miles per hour; and (3) stenciled in accordance with Section 215.305. All three of these conditions would have to be met before the car is excluded from the application of the rules.

This proposal would add to the present regulation an additional condition which must be met before a freight car in maintenance-of-way service can be operated without complying with the Freight Car Safety Standards: the equipment must be operated at a speed of less than 20 mph. Under this approach, if a railroad wants to continue its current practice of operating a maintenance-of-way car at track speeds in revenue trains, the railroad will either have to bring the car into compliance with the Freight Car Safety Standards or substitute a car that is in compliance. However, a railroad could operate a non-complying

stenciled maintenance-of-way car in a revenue train as long as that train travelled less than 20 miles per hour.

This proposal would not prohibit stenciled, non-complying maintenance-of-way cars from being used in revenue trains as long as those trains operate at speeds less than 20 miles per hour. We specifically request comments on this aspect of the proposal. Should the permissible conditions for operating non-complying maintenance-of-way equipment be further limited by prohibiting use in *all* revenue trains as well as in revenue service? In view of the possibility that a car being used in restricted service might derail, fouling an adjacent track and leading to a raking collision, should all maintenance-of-way cars be required to comply with the provisions of the Freight Car Safety Standards?

The proposed language does not change the regulation's effect on self-propelled maintenance-of-way equipment except insofar as that equipment would also have to comply with the Freight Car Safety Standards if operated at a speed of 20 miles per hour or more.

FRA data indicates that freight cars specially modified for maintenance service constitute only a small segment of the group of cars that would be affected by this proposal. The vast majority of affected cars are unmodified cars that could just as easily be used in revenue service. Indeed, FRA investigations disclosed at least one railroad that was routinely employing in revenue service equipment stenciled for maintenance service. Given the potential for such alternative service, these cars should either be brought into compliance or replaced. Even if a railroad elects to replace all of its current equipment in this category, there does not appear to be any lack of equipment available for this purpose at minimal cost since the industry has a large number of freight cars in storage.

FRA estimates that approximately 40,000 freight cars stenciled to indicate their potential use as maintenance-of-way cars would, to the degree railroads choose to use them in revenue trains at speeds of 20 miles per hour or higher, be brought into compliance with the Freight Car Safety Standards if this proposed amendment is adopted. To place that number in context, the national freight car fleet now includes more than 1.5 million cars. FRA estimates that less than three percent of the entire fleet would be affected by this proposal.

Regulatory Impact

This proposed rule has been evaluated in accordance with existing regulatory policies. The proposed rule does not constitute a major rule under Executive Order 12291, but is a significant rule under DOT regulatory policies and procedures due to industry and public interest.

The proposed rule will have a direct economic impact only on railroads. If a railroad plans its maintenance activities in a manner that necessitates operating its MOW equipment at the same speed as normal revenue service trains, this proposal will have an adverse economic impact in that a railroad will either have to upgrade the condition of their equipment or replace that equipment with stored cars that comply with the standards. FRA estimates the cost of repairing the railroad industry's maintenance-of-way fleet to be $1,576,000 the first year and $1,733,600 the second year of compliance, with $315,200 in increased annual maintenance costs thereafter.

Operating MOW cars at low speeds in dedicated MOW trains will considerably reduce the threat of derailments. When MOW equipment is operated at high speed in trains that may well contain large quantities of hazardous materials, any derailment could have grave consequences. Preventing just one accident from causing substantial loss of life or property would result in benefits well above those identifiable in a review of past accidents. A full regulatory evaluation has been placed in the public docket and is available for inspection.

The Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. FRA certifies that this proposal would not have a significant economic impact on a substantial number of small entities.

The proposed rule will not have any significant impact on small entities because the limited speed provision will allow small railroads to continue to operate their equipment at current speeds since virtually all small railroads have very low operating speeds. The proposed rule does not contain any new or altered provisions that will affect the information collection requirements contained in the existing regulation.

Federalism Implications

The proposed rulemaking action 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, FRA has determined that this notice does not have sufficient federalism implications to warrant preparation of a Federalism assessment.

List of Subjects in 49 CFR Part 215

Railroad safety.

The Proposed Rule

In consideration of the foregoing, FRA proposes to amend part 215, title 49, Code of Federal Regulations, as set forth below:

PART 215—[AMENDED]

1. The authority citation for part 215 continues to read as follows:

Authority: 45 U.S.C. 431 and 438, as amended; Pub. L. 100–342; and 49 CFR 1.49(m).

2. In section 215.3, paragraph (c)(3) is revised to read as follows:

§ 215.3 Application

* * * * *

(c) * * *

(3) Maintenance-of-way equipment (including self-propelled maintenance-of-way equipment) if it is not used in revenue service, is operated at a speed of less than 20 miles per hour, and is stenciled in accordance with § 215.305 of this part.

Issued in Washington, DC on March 3, 1994.

Donald M. Itzkoff,

Acting Administrator.

[FR Doc. 94–5371 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–06–P

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1011, and 1130

[Ex Parte No. MC–219]

Implementation of Section 4 of the Negotiated Rates Act of 1993

AGENCY: Interstate Commerce Commission (ICC).

ACTION: Notice of proposed rules.

SUMMARY: The Commission is proposing regulations to implement section 4 of the Negotiated Rates Act of 1993. The proposed regulations would establish a mechanism for obtaining ICC review and approval for motor carriers (other than household goods carriers) and shippers to resolve, by mutual consent, overcharge and undercharge claims resulting from incorrect tariff provisions

or billing errors arising from inadvertent failure to properly and timely file and maintain agreed-upon rates, rules, or classifications in compliance with 49 U.S.C. 10761 and 10762.

DATES: Comments are due on April 11, 1994.

ADDRESSES: Send comments (an original and 10 copies) referring to [Ex Parte No. MC–219] to: Interstate Commerce Commission, Office of the Secretary, Case Control Branch, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Larry Herzig or James Manning (202) 927–5180. TDD for hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: Section 4 of the Negotiated Rates Act of 1993 (Pub. L. 103–180), to be codified at 49 U.S.C. 11712, provides that:

> Subject to Commission review and approval, motor common carriers subject to the jurisdiction of the Commission * * * [other than household goods carriers] and shippers may resolve, by mutual consent, overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with [49 U.S.C.] 10761 and 10762 * * * 49 U.S.C. 11712(a).

Under this language, the Commission may approve a departure from the filed rate when the shippers and carriers agree, and the departure is needed to settle claims resulting from incorrect tariff provisions or billing errors arising from the carrier's inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications.[1]

A shipper might consent to waive carrier payment of overcharges if, for example, the charges collected at the time of shipment were the charges the shipper had agreed to pay, and later the parties determined that a lower rate was in fact the applicable filed rate.[2] Similarly, a carrier might consent to waive undercharges where the applicable filed rate is higher than the rate the parties had intended. For example, the carrier might have inadvertently failed to file the rate it had negotiated and intended to apply. In other cases, the filed tariff provision may have been incorrect; for example, the commodity description might not be sufficiently inclusive or the shipment origin might be described as within a commercial zone when it is actually several miles outside the zone.[3]

To implement the provisions of Section 11712(a), we are proposing rules that are similar to our Special Docket rules at 49 CFR 1130.2(e), which allow rail and water carriers to waive collection of undercharges or pay reparations for similar reasons.[4] These proposed motor "Tariff Reconciliation" rules provide a process that will in most cases require the carrier to file only a letter of intent and an appropriate filing fee. (If a protest is filed or the Commission initiates an investigation on its own motion, the carrier could reply.) Following the protest period and Commission review, the Commission will issue an order either approving or disapproving the agreement.

The letter of intent must describe the action intended (*i.e.*, departure from the filed rate). While we are not proposing any particular format for these letters, they must contain, at a minimum, the following information:

1. The name(s) and address(es) of the payer(s) of the freight charges;
2. The name(s) of the carrier(s) involved in the traffic;
3. The amount(s) involved;
4. The tariff authority(ies) for the charged and sought rates;
5. The date(s) when the shipment(s) involved were delivered or tendered for delivery;
6. The point(s) of origin and destination of the shipment(s) and the route(s) of movement;
7. The commodity(ies) transported;
8. A statement certifying that the carrier(s) participating in the shipment(s) or the payer(s) of the freight charges (if waiver of overcharge is involved) concur(s) with the intent to depart from the filed rate;
9. A brief explanation of the incorrect tariff provision(s) or billing error(s) causing the request to depart from the filed rate; and
10. The reason(s) why the Commission should approve the proposed resolution.

Letters of intent would be made available for public inspection in the Special Docket Board Public File, Room 4313, at our offices in Washington, DC. Letters of objection may be filed within 30 days of the filing of the petition. Following filing of the letter of intent, the proposed rules would provide separate procedures for the processing of uncontested and contested cases. With respect to uncontested petitions (letters of intent) on which the Commission does not initiate a formal investigation the Commission proposes two alternative procedures and requests comments from interested parties as to which procedure the Commission should adopt.

One procedure would adapt the Special Docket procedures. Under these procedures, objections could be lodged against a petition for a period of 30 days following its filing. If none were received and if by the 45th day following the filing date of the petition the Commission did not institute an investigation on its own motion, the petition would be considered to have been approved by the Commission. This would be consistent with the Special Docket Procedures where, unless objections are filed within 45 days after a petition is filed, the petition is thereafter considered to be "an order of the Commission authorizing the action contemplated in the petition." See 49 CFR 1130.2(e)(4). Under an alternative procedure for processing uncontested petitions, where the Commission decides not to investigate, the Commission would issue an order, through its Special Docket Board either approving or disapproving the petition.

Both procedures would meet section 11712's requirement for Commission "review and approval" of the consensual resolution of overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications by providing for careful Commission monitoring to assure that the new process is not misused or abused. Both procedures would do this by providing sufficient time for Commission consideration of each petition and the opportunity for a formal Commission investigation. The procedures differ in whether a final order will be issued granting approval of

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[1] Carriers are otherwise required by law to collect only the filed rate. Where the carrier has collected a rate higher than the applicable filed rate, and the filed rate is the rate the parties intended, the carrier may continue, as it would prior to the NRA, to repay the excess amount without recourse to the Commission. Carriers do not require court or Commission approval when merely conforming to that requirement.

[2] "Overcharge" has traditionally meant the amount by which the collected rate exceeds the legally applicable filed rate. See 49 U.S.C. 11706(b) and 11705(b)(1).

[3] In some cases where there are incorrect tariff provisions or an inadvertent carrier failure to properly and timely file and maintain the agreed upon rates, rules, or classifications, the shipper may have already paid charges that were based on a higher rate than the one the parties had intended. In this situation, the proposed rules would permit carriers to pay back the excess amounts.

[4] Unlike the rail rules, the proposed rules for motor carriers do not provide for the tolling of a statute of limitations. The reason is that for proceedings involving motor carriers, the statute of limitations can be tolled only by the filing of a court (not a Commission) action. 49 U.S.C. 11706(a), 11706(b), and 11706(c)(2). Since the section 11706 limitations periods apply only to civil actions, not to matters brought to the Commission under section 11712, the Commission proposes to accept letters of intent for motor shipments without regard to the dates of the shipments. This will allow carriers to adjust their charges even after the time for civil actions has passed, so as to avoid exposure to penalties for departure from the filed rate. See 18 U.S.C. 3282 (setting a five year period for enforcement actions against carriers) and 49 U.S.C. 11902 (six years for actions against shippers who have received rebates).

a petition not investigated by the Commission in an uncontested case. Under these circumstances, the first procedure would assure parties of a resolution of their case within 45 days. The second procedure would assure receipt of a written order confirming approval of a petition. This would also be accomplished in a short time, but the rules would not establish a standard deadline. In proposing these rules, the Commission notes that departures from the filed rate are not to be usual or expected activities. For any petition approved, under either of the procedures described above, or the other procedures proposed for contested and investigated cases, the claims to overcharges or undercharges would then be deemed to be waived (and, where refunds are involved, the carrier could then return to the shipper the excess amounts already collected).

If a letter is contested, or if the Commission decides on its own motion to investigate a particular case, carriers would not be allowed to take any action until the case is reviewed by the Special Docket Board and an appropriate order either granting or denying the application is issued. Carriers may file replies if objections are filed, or if an investigation is initiated on the Commission's own motion.

We are proposing a filing fee of $70.00. This is the same as the current filing fee of $70.00 under the rail/water Special Docket letter of intent procedures, and seems appropriate because each procedure requires similar processing.

Unlike the rail/water Special Docket procedures, the proposed rules would not require carriers to notify the Commission that the proposed transaction has been consummated. We see no need for notification, as carriers can be assumed to consummate the transactions for which they seek agency approval.

Public comment is invited on the scope of application of the proposed rules, the appropriateness of the letter of intent requirements, the alternative procedures for uncontested petitions not investigated by the Commission, the level of the fee, and on all other aspects of the proposed rules. To obtain a copy of the decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Environmental Statement

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

Regulatory Flexibility Certification

Pursuant to 5 U.S.C. 605(b), we conclude that our proposed action in this proceeding would not have a significant economic impact on a substantial number of small entities. The economic impact would be minimal because the proposed rules merely provide a simple, voluntary method to resolve certain billing problems that are likely to arise in only a small proportion of the shipments transported by the motor carrier industry. Thus the economic impact is unlikely to be significant within the meaning of the Regulatory Flexibility Act.

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

49 CFR Part 1011

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

49 CFR Part 1130

Administrative practice and procedure.

Decided: March 4, 1994.

By the Commission: Chairman McDonald, Vice Chairman Phillips, Commissioners Simmons and Philbin. Commissioner Philbin dissented.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, Title 49, Chapter X, parts 1002, 1011 and 1130 are proposed to be amended as set forth below.

PART 1002—FEES

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

Authority: 5 U.S.C. 552(a)(4)(A), 5 U.S.C. 553, 31 U.S.C. 9701 and 49 U.S.C. 10321.

2. In § 1002.2(f), in the table, a new No. 81 is added to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

Type of proceedings	Fees
(81) Tariff reconciliation petitions from motor common carriers	$70

* * * * *

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

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

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

4. Section 1011.6(e) is proposed to be revised to read as follows:

§ 1011.6 Employee boards.

* * * * *

(e) *Special Docket Board.* Disposition of special docket and tariff reconciliation proceedings under 49 CFR 1130.2 (e), (f), and (g).

* * * * *

PART 1130—INFORMAL COMPLAINTS

5. The authority citation for part 1130 is proposed to be revised to read as follows:

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 10321, 10707 and 11712.

6. In § 1130.2, paragraph (f) is proposed to be revised by adding the words "or tariff reconciliation petition" after the word "petition" in the parenthetical phrase in the first sentence and by adding the words "or tariff reconciliation" after the words "Special Docket" in the second sentence, and by adding a new paragraph (g) to read as follows:

§ 1130.2 When damages sought.

* * * * *

(g) *Tariff reconciliation proceedings for motor common carriers.*

(1) *Petitions to waive collection or permit payment.*

Pursuant to 49 U.S.C. 11712, subject to Commission review and approval, motor common carriers (other than household goods carriers) and shippers may resolve, by mutual consent, overcharge and undercharge claims resulting from incorrect tariff provisions or billing errors arising from the inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications in compliance with 49 U.S.C. 10761 and 10762. Under section 11712, the Commission may approve a departure from the filed rate when the shipper and carrier agree, and the departure is needed to settle claims resulting from incorrect tariff provisions or billing errors arising from the carrier's inadvertent failure to properly and timely file and maintain agreed upon rates, rules, or classifications. Petitions for appropriate authority should be filed by the carrier in the Commission's tariff reconciliation docket by submitting a letter of intent to depart from the filed

rate. Copies of the petitions must be served on all parties named in the petitions. The petitions will be deemed the equivalent of an informal complaint and answer admitting the matters stated in the petition. Petitions shall be sent to the Special Docket Board, Interstate Commerce Commission, Washington, DC 20423. The petitions shall contain, at a minimum, the following information:

(i) The name(s) and address(es) of the payer(s) of the freight charges;

(ii) The name(s) of the carrier(s) involved in the traffic;

(iii) The amount(s) involved;

(iv) The tariff authority(ies) for the charged and sought rate;

(v) The date(s) when the shipment(s) involved were delivered or tendered for delivery;

(vi) The point(s) of origin and destination of the shipment(s) and the route(s) of movement;

(vii) The commodity(ies) transported;

(viii) A statement certifying that the carrier(s) participating in the shipment(s) or the payer(s) of the freight charges (if waiver of overcharges is involved) concur(s) with the intent to depart from the filed rate;

(ix) A brief explanation of the incorrect tariff provision(s) or billing error(s) causing the request to depart from the filed rate; and

(x) The reason(s) why the Commission should approve the proposed resolution.

(2) *Public notice and protest.* Tariff reconciliation petitions (letters of intent) shall be served on all parties named in the petition and will be made available by the Commission for public inspection in the Special Docket Board Public File Room, Room 4313, Interstate Commerce Commission, Washington, DC 20423. Any interested person may protest the granting of a petition by filing a letter of objection with the Special Docket Board within 30 days of Commission receipt of the petition. Letters of objection shall identify the tariff reconciliation proceeding, shall clearly state the reasons for the objection, and shall certify that a copy of the letter of objection has been served on all parties named in the petition.

(As to uncontested petitions, not investigated by the Commission two alternative rules are offered for comment. Comments from interested parties are requested on which procedure the Commission should adopt.) (First possible rule)

(3) *Uncontested petitions.* If a petition is not contested, and if the Commission does not initiate an investigation of the petition on its own motion, approval is deemed granted without further action by the Commission, effective 45 days after Commission receipt of the petition. (Second possible rule)

(3) *Uncontested petitions.* If a petition is not contested, the Commission may initiate an investigation of the petition on its own motion, or it may simply issue an order either approving or disapproving the petition.

(4) *Contested petitions.* If a petition is contested or the Commission initiates an investigation of the petition on its own motion, 15 days will be allowed for reply. The 15 day period will commence on the date of service of the objections or, if the Commission initiates an investigation on its own motion, on the date of service of the decision initiating the investigation. After the period for reply has expired, the Commission will issue a decision approving or disapproving the agreement, or requesting further submissions from the parties.

[FR Doc. 94–5625 Filed 3–9–94; 8:45 am]
BILLING CODE 7035–01–P

Notices

Federal Register
Vol. 59, No. 47
Thursday, March 10, 1994

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

Forms Under Review by Office of Management and Budget

March 4, 1994.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information: (1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 690–2118.

Extension

- Agricultural Marketing Service
  Fresh Prunes Grown in Designated Counties in Washington and Umatilla County, Oregon-Marketing Order No. 924
  On occasion; Biennially
  Farms; Businesses or other for-profit; 91 responses; 23 hours
  Mark Kreaggor (202) 720–1755
- Agricultural Marketing Service
  Raisins Produced from Grapes Grown in California, Marketing Order No. 989
  FV–197 and FV–198
  Recordkeeping; On occasion; Weekly; Monthly; Annually
  Farms; Businesses or other for-profit; Small businesses or organizations; 15,279 responses; 2,584 hours
  Valerie L. Emmer
- Foreign Agricultural Service
  Certificate of Quota Eligibility
  FAS–961
  On occasion
  Businesses or other for-profit; 600 responses; 100 hours
  Fred R. Kessel (202) 720–5676
- Forest Service
  36 CFR Part 223—Disposal of National Forest Timber—Reports on Export or Substitution of Unprocessed Timber
  FS–2400–43 through 46
  On occasion
  Small businesses or organizations 8,200 responses; 4,100 hours
  Ron Lewis (202) 205–0855
- Forest Service
  36 CFR 223—Disposal of National Forest Timber—Timber Export and Substitution Restrictions
  One time only
  Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 33 responses; 69 hours
  Ron Lewis (202) 205–0855

Donald E. Hulcher,

Deputy Department Clearance Officer.

[FR Doc. 94–5488 Filed 3–9–94; 8:45 am]

BILLING CODE 3410–01–M

Cooperative State Research Service

Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program; Solicitation of Proposals for Fiscal Year 1994

PURPOSE: Notice is hereby given that under the authority contained in Section 1417(b)(6) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)), the Cooperative State Research Service (CSRS) through its Office of Higher Education Programs (HEP), will award competitive grants to colleges and universities for doctoral fellowships to meet national needs for the development of professional and scientific expertise in the food and agricultural sciences.

ELIGIBILITY: Please note that the authorizing legislation for the National Needs Graduate Fellowship Program allows the award of grants to colleges and universities only; awards cannot be made to research foundations established by the college or university.

AVAILABLE FUNDS: The amount available for this purpose in Fiscal Year 1994 is approximately $3,395,000.

TARGETED AREAS: Food and agricultural sciences areas appropriate for fellowship applications are those in which shortages of expertise have been determined and targeted by CSRS–HEP for national needs doctoral fellowship support. Please note that due to the funding level of this program over the last seven fiscal years, CSRS supports the six national needs areas funded in past years on a rotating basis of three needs areas per fiscal year. The targeted national needs areas to be supported in FY 1994 are: Biotechnology—Animal; Human Nutrition and/or Food Science; and Marketing or Management—Food, Forest Products, or Agribusiness. Approximately one-third of the available funds will be allocated to each of the three national needs areas. CSRS plans to support the remaining three national needs areas (Biotechnology—Plant; Engineering—Food, Forest, Biological, and Agricultural; and Water Science) in FY 1995. Although this procedure limits the participation of an applicant interested in a specific targeted national needs area to alternating years, it increases the likelihood that the applicant will obtain funding under the program each time a grant application is submitted.

PROPOSAL LIMITATIONS: For the Fiscal Year 1994 program, a proposal may request funding in only one: (1) National needs area. A proposal may request a minimum of two (2) fellowships and a maximum of four (4) fellowships in the national needs area for which funding is requested. No limitation is placed on the number of proposals an institution may submit. However, the same college or equivalent administrative unit within an institution may submit a maximum of three (3) proposals: One (1) in each of the three national needs areas supported. (No more than one proposal may be submitted in any one national needs area by the same college or equivalent administrative unit.) Additionally, total funds awarded to an institution under the program in Fiscal Year 1994 shall not exceed $324,000.

FINANCIAL AND OTHER LIMITATIONS: Each institution funded will receive $54,000 for each doctoral fellowship awarded. However, it is anticipated that total program funds available will not be evenly divisible by $54,000. Therefore, one fellowship will be supported on a partial basis with a lesser amount of funds. Except in the case of the partially funded fellowship, fellowship monies must be used to: (1) Support the same doctoral fellow for three (3) years at $17,000 per year; and (2) provide for an institution annual cost-of-education allowance of $1,000, not to exceed a total of $3,000 over the three-year duration of the fellowship. Please note that beginning in FY 1991 the yearly doctoral stipend was increased from $15,000 to $17,000 in an attempt to keep the USDA support at a level that is competitive with fellowships offered outside the food and agricultural sciences community.

While proposals must document institution willingness to recruit and train at least two (2) but not more than four (4) fellows in a national needs area, CSRS may fund fewer fellows than requested in a proposal.

This program is highly competitive, and it is anticipated that available funding will support approximately 63 doctoral fellows through seven grants in each of the three targeted areas.

APPLICATION INFORMATION: An Application Kit has been developed which provides the forms, instructions, and other relevant information needed by institutions to apply to the Food and Agricultural Sciences National Needs Graduate Fellowships Grants Program described herein. Applicants should be aware that proposals must be typed on one side of the page only, using a font no smaller than ten characters per inch, and double-spaced. All margins must be at least one inch. All pages following the Table of Contents must be paginated. Additionally, applicants are cautioned to comply with the 20-page limitation for the narrative section of the proposal and the inclusion of summary faculty vitae through the use of Form CSRS–708.

Copies of the Application Kit may be requested from: Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; Ag Box 2245; Washington, DC 20250–2245; telephone number (202) 401–5048.

WHEN AND WHERE TO SUBMIT PROPOSALS: Six (6) copies of a proposal and one (1) copy of the institution's latest graduate catalog must be submitted. Proposals submitted through the mail should be sent to the address listed above and must be postmarked by April 29, 1994. Hand-delivered proposals must be submitted by April 29, 1994, to an express mail or a courier service or brought to Proposal Services Branch; Awards Management Division; Cooperative State Research Service; U.S. Department of Agriculture; room 303; Aerospace Center, 901 D Street, SW., Washington, DC 20024. Proposals transmitted via a facsimile (FAX) machine will not be accepted.

APPLICABLE REGULATIONS: This program is subject to the provisions found at 7 CFR part 3402 (52 FR 4712, February 13, 1987, as amended by 55 FR 2214, January 22, 1990). In addition, the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, as amended; the Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-FreeWorkplace (Grants), 7 CFR part 3017; the New Restrictions on Lobbying, 7 CFR part 3018; and Audits of Institutions of Higher Education and Other Nonprofit Institutions, 7 CFR part 3051, apply to this program.

SUPPLEMENTARY INFORMATION: This program is listed in the Catalog of Federal Domestic Assistance under No. 10.210. For the reasons set forth in the Final Rule related notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, when the authority to administer this program resided in the Agricultural Research Service, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0024.

Done at Washington, DC, this 4th day of March 1994.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 94–5575 Filed 3–9–94; 8:45 am]

BILLING CODE 3410–22–M

Food and Nutrition Service

Commodity Supplemental Food Program: Elderly Poverty Income Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of elderly persons applying to participate in the Commodity Supplemental Food Program (CSPP). These poverty income guidelines are to be used in conjunction with the CSFF Regulations.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305–2730.

SUPPLEMENTARY INFORMATION:

Classification

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112).

Description

On December 23, 1985 the President signed the Food Security Act of 1985 (Pub. L. 99–198). This legislation amended section 5(f) and (g) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require that the Secretary permit agencies administering the CSFP to serve elderly persons if such service can be provided without reducing service levels for women, infants, and children. The law also mandates establishment of income eligibility requirements for elderly participation. Prior to enactment of Public law 99–198, elderly participation was restricted by law to three designated pilot projects which served the elderly in accordance with agreements with the Department.

In order to implement the CSFP mandates of Public law 99–198, the Department published interim rules on September 17, 1986 at 51 FR 32895 and a final rule on February 18, 1988 at 58 FR 8287. These regulations defined

"elderly persons" as those who are 60 years of age or older. The final rule further stipulated that elderly persons certified on or after September 17, 1986 must have "household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services" (7 CFR 247.7(a)(3)).

These poverty income guidelines are revised annually to reflect changes in the Consumer Price Index. The revision for 1994 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** for February 10, 1994 at 59 FR 6277. At this time the Department is publishing the income limit of 130 percent of the poverty income guidelines by household size to be used for elderly certification in the CSFP for the period July 1, 1994–June 30, 1995.

The poverty income guidelines were multiplied by 1.30 and the results rounded up to the next whole dollar.

The first table in this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia, and all the Territories including Guam. Because the poverty income guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

EFFECTIVE JULY 1, 1994–JUNE 30, 1995

Family size	Annual FNS poverty income guidelines for elderly in CSFP (130% of PIG)
48 States, District of Columbia, Puerto Rico, Virgin Islands, and Territories, including Guam:	
1.	9,568
2.	12,792
3.	16,016
4.	19,240
5.	22,464
6.	25,688
7.	28,912
8.	32,136
For each additional family member add:	3,224
Alaska:	
1.	11,960
2.	15,990
3.	20,020
4.	24,050
5.	28,080
6.	32,110
7.	36,140
8.	40,170
For each additional family member add	4,030
Hawaii:	
1.	11,011
2.	14,716
3.	18,421
4.	22,126
5.	25,831
6.	29,536
7.	33,241
8.	36,946
For each additional family member add	3,705

Dated: March 4, 1994.

William E. Ludwig,

Administrator.

INCOME ELIGIBILITY GUIDELINES

[Effective From July 1, 1994 to June 30, 1995]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
48 Contiguous United States, District of Columbia, Guam and Territories									
1	7,360	614	142	13,616	1,135	262	9,568	798	184
2	9,840	820	190	18,204	1,517	351	12,792	1,066	246
3	12,320	1,027	237	22,792	1,900	439	16,016	1,335	308
4	14,800	1,234	285	27,380	2,282	527	19,240	1,604	370
5	17,280	1,440	333	31,968	2,664	615	22,464	1,872	432
6	19,760	1,647	380	36,556	3,047	703	25,688	2,141	494
7	22,240	1,854	428	41,144	3,429	792	28,912	2,410	556

INCOME ELIGIBILITY GUIDELINES—Continued

[Effective From July 1, 1994 to June 30, 1995]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
8	24,720	2,060	476	45,732	3,811	880	32,136	2,678	618
For each add'l family member add	+2,480	+207	+48	+4,588	+383	+89	+3,224	+269	+62
Alaska									
1	9,200	767	177	17,020	1,419	328	11,960	997	230
2	12,300	1,025	237	22,755	1,897	438	15,990	1,333	308
3	15,400	1,284	297	28,490	2,375	548	20,020	1,669	385
4	18,500	1,542	356	34,225	2,853	659	24,050	2,005	463
5	21,600	1,800	416	39,960	3,330	769	28,080	2,340	540
6	24,700	2,059	475	45,695	3,808	879	32,110	2,676	618
7	27,800	2,317	535	51,430	4,286	990	36,140	3,012	695
8	30,900	2,575	595	57,165	4,764	1,100	40,170	3,348	773
For each add'l family member add	+3,100	+259	+60	+5,735	+478	+111	+4,040	+336	+78
Hawaii									
1	8,470	706	163	15,670	1,306	302	11,011	918	212
2	11,320	944	218	20,942	1,746	403	14,716	1,227	283
3	14,170	1,181	273	26,215	2,185	505	18,421	1,536	355
4	17,020	1,419	328	31,487	2,624	606	22,126	1,844	426
5	19,870	1,656	383	36,760	3,064	707	25,831	2,153	497
6	22,720	1,894	437	42,032	3,503	809	29,536	2,462	568
7	25,570	2,131	492	47,305	3,943	910	33,241	2,771	640
8	28,420	2,369	547	52,577	4,382	1,012	36,946	3,079	711
For each add'l family member add	+2,850	+238	+55	+5,273	+440	+102	+3,705	+309	+72

[FR Doc. 94–5570 Filed 3–9–94; 8:45 am]

BILLING CODE 3410–30–P–M

Special Supplemental Food Program for Women, Infants and Children (WIC): Poverty Income Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted poverty income guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Food Program for Women, Infants and Children (WIC Program). These poverty income guidelines are to be used in conjunction with the WIC Regulations.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT:

Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305–2730.

SUPPLEMENTARY INFORMATION:

Classification

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of this Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112).

Description

Section 17(d)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)) requires the Secretary to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced price school meals under section 9(b) of the National School Lunch Act (42 U.S.C. 1758(b)). Under section 9(b), the income limit for reduced price school meals is 185 percent of the Federal Poverty Income Guidelines, as adjusted.

Section 9(b) also requires that these guidelines be revised annually to reflect changes in the Consumer Price Index. The annual revision for 1994 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** on February 10, 1994 at 59 FR 6277. The guidelines published by DHHS are referred to as the poverty income guidelines.

Section 246.7(c)(1) of the WIC regulations specifies that State agencies may prescribe income guidelines either equaling the income guidelines established under section 9(b) of the National School Lunch Act for reduced price school meals or identical to State or local guidelines for free or reduced price health care. However, in conforming WIC income guidelines to State or local health care guidelines, the

State cannot establish WIC guidelines which exceed the guidelines established under section 9(b) of the National School Lunch Act for reduced price school meals, or which are less than 100 percent of the Federal poverty income guidelines. Consistent with the method used to compute eligibility guidelines for reduced price meals under the National School Lunch Program, the poverty income guidelines were multiplied by 1.85 and the results rounded upward to the next whole dollar.

At this time the Department is publishing the maximum and minimum WIC poverty income limits by household size for the period July 1, 1994 through June 30, 1995. The first table of this notice contains the income limits by household size for the 48 contiguous States, the District of Columbia and all Territories, including Guam. Because the poverty income guidelines for Alaska and Hawaii are higher than for the 48 contiguous States, separate tables for Alaska and Hawaii have been included for the convenience of the State agencies.

EFFECTIVE JULY 1, 1994–JUNE 30, 1995

Family size	Annual poverty income guidelines (PIG)	Annual FNS income guidelines for reduced-price lunches (185% of PIG)
48 States, District of Columbia, Puerto Rico, Virgin Islands, and Territories, including Guam:		
1	7,360	13,616
2	9,840	18,204
3	12,320	22,792
4	14,800	27,380
5	17,280	31,968
6	19,760	36,556
7	22,240	41,144
8	24,720	45,732
For each additional family member add	2,480	4,588
Alaska:		
1	9,200	17,020
2	12,300	22,755
3	15,400	28,490
4	18,500	34,225
5	21,600	39,960
6	24,700	45,695
7	27,800	51,430
8	30,900	57,165
For each additional family member add	3,100	5,735
Hawaii:		
1	8,470	15,670
2	11,320	20,942
3	14,170	26,215
4	17,020	31,487
5	19,870	36,760
6	22,720	42,032
7	25,570	47,305
8	28,420	52,577
For each additional family member add	2,850	5,273

Dated: March 4, 1994.

William E. Ludwig,

Administrator.

INCOME ELIGIBILITY GUIDELINES

[Effective From July 1, 1994 to June 30, 1995]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
48 Contiguous United States, District of Columbia, Guam and Territories									
1	7,360	614	142	13,616	1,135	262	9,568	798	184
2	9,840	820	190	18,204	1,517	351	12,792	1,066	246
3	12,320	1,027	237	22,792	1,900	439	16,016	1,335	308
4	14,800	1,234	285	27,380	2,282	527	19,240	1,604	370
5	17,280	1,440	333	31,968	2,664	615	22,464	1,872	432
6	19,760	1,647	380	36,556	3,047	703	25,688	2,141	494
7	22,240	1,854	428	41,144	3,429	792	28,912	2,410	556
8	24,720	2,060	476	45,732	3,811	880	32,136	2,678	618

INCOME ELIGIBILITY GUIDELINES—Continued

[Effective From July 1, 1994 to June 30, 1995]

Household size	Federal poverty guidelines			Reduced price meals—185%			Free meals—130%		
	Annual	Month	Week	Annual	Month	Week	Annual	Month	Week
For each add'l family member add	+2,480	+207	+48	+4,588	+383	+89	+3,224	+269	+62
Alaska									
1	9,200	767	177	17,020	1,419	328	11,960	997	230
2	12,300	1,025	237	22,755	1,897	438	15,990	1,333	308
3	15,400	1,284	297	28,490	2,375	548	20,020	1,669	385
4	18,500	1,542	356	34,225	2,853	659	24,050	2,005	463
5	21,600	1,800	416	39,960	3,330	769	28,080	2,340	540
6	24,700	2,059	475	45,695	3,808	879	32,110	2,676	618
7	27,800	2,317	535	51,430	4,286	990	36,140	3,012	695
8	30,900	2,575	595	57,165	4,764	1,100	40,170	3,348	773
For each add'l family member add	+3,100	+259	+60	+5,735	+478	+111	+4,030	+336	+78
Hawaii									
1	8,470	706	163	15,670	1,306	302	11,011	918	212
2	11,320	944	218	20,942	1,746	403	14,716	1,227	283
3	14,170	1,181	273	26,215	2,185	505	18,421	1,536	355
4	17,020	1,419	328	31,487	2,624	606	22,126	1,844	426
5	19,870	1,656	383	36,760	3,064	707	25,831	2,153	497
6	22,720	1,894	437	42,032	3,503	809	29,536	2,462	568
7	25,570	2,131	492	47,305	3,943	910	33,241	2,771	640
8	28,420	2,369	547	52,577	4,382	1,012	36,946	3,079	711
For each add'l family member add	+2,850	+238	+55	+5,273	+440	+102	+3,705	+309	+72

[FR Doc. 94–5571 Filed 3–9–94; 8:45 am]

BILLING CODE 3410–30–P–M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the California 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 California Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 12 noon on Saturday, March 26, 1994, at the Marriott Hotel, 359 Calle Principal, Monterey, California 93940. The purpose of the meeting is to discuss and plan future Advisory Committee activities.

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 213–894–0508). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) 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, March 2, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–5605 Filed 3–9–94; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 686]

Grant of Authority for Subzone Status Intel Corporation, (Semiconductors and Computer Products) Chandler, AZ

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Phoenix, Arizona, grantee of Foreign-Trade Zone 75, for authority to establish a special-purpose subzone for the semiconductor/ integrated circuit and data processing products manufacturing facility of Intel Corporation located in Chandler (Maricopa County), Arizona, was filed by the Board on November 22, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 57–93, 58 FR 62635, 11/29/93); and,

Whereas, the Board has found that the requirements of the Act and Board's regulations would be satisfied, and that approval of the application would be in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 75C) at the Intel Corporation facility in Chandler, Arizona, at the locations described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 2nd day of March 1994.

Joseph A. Spetrini

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary

[FR Doc. 94–5617 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–05–P

International Trade Administration

[A–570–826]

Postponement of Preliminary Antidumping Duty Determination: Certain Paper Clips From the People's Republic of China (PRC)

AGENCIES: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Erik Warga, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0922.

Postponement

On November 2, 1993, the Department initiated an antidumping duty investigation of certain paper clips from the PRC. The notice of initiation stated that we would issue our preliminary determination on or before March 22, 1994 (58 FR 59239, November 8, 1993).

This investigation is rendered extraordinarily complicated by the novel issue of government ownership of exporters of subject merchandise. Furthermore, information available to the Department indicates that there are many producer/exporters of the subject merchandise. The process of identifying all exporters who sold subject merchandise to the United States during the period of investigation caused significant delays in issuing our questionnaire. In addition, we determine at this time that respondent parties in this investigation appear to be cooperating.

For these reasons, pursuant to sections 733(c)(1)(B)(i)(II) and (III) of Tariff Act of 1930, as amended (the Act), we determine that this investigation is extraordinarily complicated and that additional time is necessary to make the preliminary determination in accordance with 733(c)(1)(B)(ii) of the Act. Therefore, we are postponing our preliminary determination in this case. We will make our preliminary determination no later than May 11, 1994.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: March 2, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–5455 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–DS–M

[A–307–809]

Postponement of Preliminary Antidumping Duty Determination: Phthalic Anhydride From Venezuela

AGENCIES: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Cameron Werker, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3874.

Postponement

On February 14, 1994, the petitioners in the above-referenced investigation requested that the Department postpone its preliminary determination until April 11, 1994, in order to permit further analysis of the respondent's questionnaire responses. On February 22, 1994, the respondent in this investigation objected to the aforementioned extension based on its belief that the nature of the investigation is not such that an extension is necessary. In a February 23, 1994, letter, petitioners amended their request to ask that the preliminary determination in this investigation be postponed until May 20, 1994, stating that a postponement was necessary to permit them to determine whether the record contained evidence to support an allegation that home market sales were made at prices below the allegation that home market sales were made at prices below the cost of production under section 773(b) of the Trade and Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1677b(b)). In accordance with section 733(c)(1)(A) of the Act (19 U.S.C. 1673b(c)(1)(A)) and 19 CFR 353.15(c), we find no compelling reasons to deny the request and are, accordingly, postponing the date of the preliminary determination until May 20, 1994.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: March 3, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–5616 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–828, A–823–805]

Postponement of Preliminary Antidumping Duty Determinations: Silicomanganese From the People's Republic of China (PRC) and Ukraine

AGENCIES: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Michael Ready (PRC) or Edward Easton (Ukraine), Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2613 or (202) 482–1777, respectively.

Postponement

On December 2, 1993, the Department initiated antidumping duty investigations of silicomanganese from the RPC and Ukraine. The notice of initiation stated that we would issue our preliminary determinations on or before April 21, 1994 (58 FR 64553, December 8, 1993).

We determine that these cases are extraordinarily complicated because of the novel issues presented in each. In the case of the PRC, information available to the Department indicates that there are many producer/exporters of the subject merchandise. To date, however, we have not been able to identify or contact large numbers of these companies. In the case of Ukraine, the dramatic changes occurring in the domestic economy have complicated the assessment necessary for selection of surrogate countries for the investigation. The inability at this time to select surrogate countries prevents our valuation of the factors of production in Ukraine. In addition, we determine that the parties in these investigations are cooperating and that additional time is necessary to make the preliminary determinations.

For these reasons, we determine that these investigations are extraordinarily complicated in accordance with section 733(c)(1)(B)(i)(II) of Tariff Act of 1930, as amended (the Act), and that additional time is necessary to make these preliminary determinations in

accordance with section 733(c)(1)(B)(ii) of the Act. The statutory deadline for issuing these determinations will now be not later than June 10, 1994.

This notice is published pursuant to section 733(c)(2) of the Act and 19 CFR 353.15(d).

Dated: March 2, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–5454 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–DS–M

I41[A–588–054]

Tapered Roller Bearings Four Inches or Less in Outside Diameter and Certain Components Thereof From Japan; Affirmation of the Results of Redetermination Pursuant to Court Remand

SUMMARY: On September 28, 1993, the United States Court of International Trade (the Court) affirmed the Department of Commerce's (the Department) redetermination on remand of the final results and amendment to the final results of the administrative review of the antidumping finding on tapered roller bearings, four inches or less in outside diameter, and certain components thereof, from Japan (56 FR 26054, June 6, 1991, and 56 FR 31113, July 9, 1991) (*NSK Ltd. and NSK Corporation* v. *United States*, (Slip. Op. 93–121, June 28, 1993) (*NSK*)). The results covered the period August 1, 1987 through July 31, 1988.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Maureen Shields or John Kugelman at (202) 482–5253, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 1993, the Court issued an order remanding to the Department the final results and amended final results of the 1987–88 administrative review of the antidumping finding on tapered roller bearings, four inches or less in outside diameter, and components thereof, from Japan.

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision.

In *NSK*, the Court ordered the Department to recalculate NSK's U.S. inventory carrying costs using the home market short-term interest rate. Those remand instructions constitute a decision not in harmony with the Department's final results of review. This notice fulfills the publication requirements of *Timken*.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise. Further, absent an appeal, or, if appealed, upon a "conclusive" court decision affirming the Court's opinion, the Department will amend the final results and amendment to those final results of the administrative review of the antidumping finding on tapered roller bearings, four inches or less in outside diameter, and certain components thereof, from Japan to reflect the amended margin of 16.27 percent in the Department's redetermination on remand, which was affirmed by the Court.

Dated: March 3, 1994.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 94–5453 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Friedrich R. Crupe, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87–9A004."

AMT—The Association For Manufacturing Technology's ("AMT") original Certificate was issued on May 19, 1987 (52 FR 19371, May 22, 1987) and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987), January 3, 1989 (54 FR 837, January 10, 1989); April 20, 1989 (54 FR 19427, May 5, 1989); May 31, 1989 (54 FR 24931, June 12, 1989); May 29, 1990 (55 FR 23576, June 11, 1990); June 7, 1991 (56 FR 28140, June 19, 1991); November 27, 1991 (56 FR 63932, December 6, 1991); and July 20, 1992 (57 FR 33319, July 28, 1992). A summary of the application for an amendment follows.

Summary of the Application:

Applicant: AMT—The Association For Manufacturing Technology, 7901 Westpark Drive, McLean, Virginia 22102–4269.

Contact: Jerome D. Sorkin, Legal Counsel, Telephone: (202) 662–6000.

Application No.: 87–9A004.

Date Deemed Submitted: March 1 1994.

Proposed Amendment: AMT—The Association For Manufacturing Technology seeks to amend its Certificate to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): BHS-Torin, Inc., Farmington, Connecticut; Bertsche Engineering Corporation, Buffalo Grove, Illinois; Bohle Machine Tools, Inc., Farmington Hills, Michigan; Bramac Machine Tool Co., Tucson, Arizona;

Burr King Mfg. Co., Inc., South El Monte, California; Cellular Concepts Company, Detroit, Michigan (controlling entity: U.S. Equipment Co.); City Machine Tool & Die Company, Inc., Muncie, Indiana; D & H Machinery, Inc. Toledo, Ohio; Darex Corporation, Ashland, Oregon; DeVlieg-Bullard Services Group, Rockford, Illinois (controlling entity: DeVlieg-Bullard Inc.); Feldmann, Inc., Rockford, Illinois; Industrial Metal Products Corporation, Lansing, Michigan; Kalamazoo Saw Co., Kalamazoo, Michigan (controlling entity: KTS Industries, Inc.); Komatsu-Cybermation, Medford, Massachusetts (controlling entity: Komatsu Ltd.); Lasercut, Inc., North Bradford, Connecticut; M T R Ravensburg, Inc., Rochester, New York; Milltronics Manufacturing Company, Chanhassen, Minnesota; Modern Machine Tool Company, Jackson, Michigan; Munson Machinery Company, Inc., Utica, New York; Parlec, Inc., Fairport, New York; Rofin-Sinar, Inc., Plymouth, Michigan (controlling entity: Siemens Corporation); Sugino Corporation, Schaumburg, Illinois (controlling entity: Sugino Machine Ltd.); Utilase Systems, Inc., Detroit, Michigan; Weldun Flexible Assembly Systems, Bridgman, Michigan (controlling entity: Weldun International, Robert Bosch Corp.); Wes-Tech, Inc., Buffalo Grove, Illinois; Herman Williams Company, Inc., Birmingham, Alabama; and Peter Wolters of America, Plainville, Massachusetts (Peter Wolters AG);

2. Delete each of the following companies as a "Member" of the Certificate: Abrasive Engineering & Manufacturing; Alpha Machine, Inc.; American Machine & Science (Katy Inds.); Coherent General, Inc.; Equipment Systems Technology Company; GTE Valenite Corporation; The Hill Acme Company; C. O. Hoffacker Company; HZ Clearing Inc.; Jacobson Tool & Manufacturing Corp.; L & J Press Corporation; Maho Machine Tool Corporation; Manuflex Corporation; Mega Manufacturing Inc.; Pacific Press & Shear Inc.; Perfekt Precision Mfg. Co., Inc.; Tannewitz, Inc.; Truxton Machinery, Inc.; Unipunch Products, Inc.; and Vulcan Tool Company; and

3. Change the listing of the company name for each current "Member" cited in this paragraph to the new listing cited in this paragraph in parenthesis as follows: American Pfauter Limited (American Pfauter Limited Partnership); Automation & Modular Components, Inc. (Automation & Modular Components); Barnes Drill Company (Barnes International, Inc.); Belden Tools, Inc. (Belden Inc.); Blue Valley Machine and Mfg. Co., Inc. (Blue Valley Machine and Mfg. Co.); Bracker Corporation (Bracker Corporation Pittsburgh); Bryant Grinder Corporation (Vermont-USA Machine Tool Group); Cleveland Punch & Shear (Bath Iron Works); The Cleveland Tapping Machine Company (TCE Corporation); Command Corporation (Command Corporation International); Compumachine Inc. (Compumachine Incorporated); Cooper-Weymouth, Peterson Div., Reed National Corp. (Cooper-Weymouth, Peterson); Crankshaft Machine Company (Crankshaft Machine Group); Dake Division, JSJ Corporation (Dake); Danly Machine Division/Connell Ltd. Partnership (Danly-Komatsu, L.P.); Digital Electronic Automation, Inc. (DEA); Eaton Leonard Technologies, Inc. (Eaton Leonard, Inc.); Electro Arc Manufacturing Co., Inc. (Electro Arc Manufacturing Co.); Esterline Corporation (Esterline Technologies); Fadal Engineering Company, Inc. (Fadal Engineering Co., Inc.); Fairfield Machine Co., Inc. (Fairfield Machine); Fayscott Company (Fayscott Co.); Fellows Corporation (Vermont-USA Machine Tool Group); Genesis Systems Group Inc. (Genesis Systems Group); George Fischer-Bohle Machine Tools Corp. (George Fischer, Ltd.); Gleason Corporation (The Gleason Corporation); Gold Crown Machinery, Inc. (Goldcrown Machinery); Greenfield Industries—Geometric Division (Greenfield Industries); Hansvedt Industries, Inc. (Hansvedt EDM Division); Harper Company (Harper Surface Finishing Systems, Inc.); HEM, Inc. (HE&M Saw); P. R. Hoffman Machine Products Co. (P. R. Hoffman Machine Products); Hoglund Corporation (Hoglund Technology Corporation); Imperial Stamp & Engraving Co., Inc. (Imperial Stamp & Engraving Company); Jarvis Corporation (Jarvis Products Corporation); Jones & Lamson-Vermont Corp. (Vermont-USA Machine Tool Group); Litton Industrial Automation—Machining & Assembly Sys. Div. (Litton Industrial Automation); Lynn Electronics Corp. (Lynn Electronics Corporation); J.M. Montgomery Mfg. Inc. (J.M. Montgomery Manufacturing Inc.); Multipress Incorporated (Multipress Division); National Acme Co. (The National Acme Company); National Broach & Machine Company (National Broach & Machine Co.); The Ohio Broach Machine Co. (The Ohio Broach & Machine Co.); Okuma Machinery, Inc. (Okuma Inc.); Peerless (Peerless Saw Division—Wisconsin Automated Machinery); PH Hydraulics & Automation, Inc. (PH Hydraulics and Automation, Inc.); PMC Industries, Inc. (PMC Industries); PS Group, Inc. (PS Group); Pope Machinery Inc. (Pope Corporation); Rank Pneumo Inc. (Rank Taylor Hobson Inc.); Republic Lagun CNC Corporation (Republic Lagun Machine Tool Co.); The S-P Manufacturing Corporation (S-P/Sheffer International, Inc.); Seneca Falls Machine Tool Co., Inc. (Seneca Falls Technology Group); Setco Industries, Inc. (Setco Sales Company); South Bend Lathe, Inc. (South Bend Lathe Corp.); and Teledyne Industries, Inc. (Teledyne).

Dated: March 3, 1994.

Friedrich R. Crupe,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 94–5463 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–DR–P

Minority Business Development Agency

Business Development Center Applications: Santa Barbara, CA

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625 and 15 U.S.C. 1512, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) Program. The total cost of performance for the first budget period (12 months) from August 1, 1994 to July 31, 1995, is estimated at $198,971. The application must include a minimum cost-share of 15% of the total project cost through non-Federal contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The MBDC will operate in the Santa Barbara, California Geographic Service Area.

The funding instrument for this project will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program provides business development services to the minority business community to help establish and maintain viable minority businesses. To this end, MBDA funds organizations to identify and coordinate public and private sector resources on behalf of minority individuals and firms; to offer a full range of

management and technical assistance to minority entrepreneurs; and to serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to each evaluation criteria category to be considered programmatically acceptable and responsive. Those applications determined to be acceptable and responsive will then be evaluated by the Director of MBDA. Final award selections shall be based on the number of points received, the demonstrated responsibility of the applicant, and the determination of those most likely to further the purpose of the MBDA program. Negative audit findings and recommendations and unsatisfactory performance under prior Federal awards may result in an application not being considered for award. The applicant with the highest point score will not necessarily receive the award.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist in this effort, the MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, the MBDC will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000.

Quarterly reviews culminating in year-to-date evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the total discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

DATES: The closing date for applications is April 20, 1994. Applications must be postmarked on or before April 20, 1994.

The mailing address for submission is:

San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, room 1280, San Francisco, California 94105, 415/744–3001.

A pre-application conference to assist all interested applicants will be held at the following address and time:

San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, room 1280, San Francisco, California 94105, April 1, 1994 at 10 a.m.

FOR FURTHER INFORMATION CONTACT: Melda Cabrera, Regional Director, San Francisco Regional Office at 415/744–3001.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. The collection of information requirements for this project have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0640–0006. Questions concerning the preceding information can be answered by the contact person indicated above, and copies of application kits and applicable regulations can be obtained at the above address.

Pre-Award Costs

Applicants are hereby notified that if they incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that an applicant may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

Awards under this program shall be subject to all Federal laws, and Federal and Departmental regulations, policies, and procedures applicable to Federal financial assistance awards.

Outstanding Account Receivable

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce are made.

Name Check Policy

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty of financial integrity.

Award Termination

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the award recipient has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are unsatisfactory performance of MBDC work requirements, and reporting inaccurate or inflated claims of client assistance. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

False Statements

A false statement on an application for Federal financial assistance is grounds for denial or termination of funds, and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Primary Applicant Certifications

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying."

Nonprocurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form prescribed above applies.

Drug Free Workplace

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies.

Anti-Lobbying

Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications

Recipients shall require applications/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: March 1, 1994.

Melda Cabrera,

Regional Director, San Francisco Regional Office.

[FR Doc. 94–5600 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[I.D. 030494B]

Marine Mammals

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

ACTION: Notice of public hearing on scientific research permit applications (P557 and P557A).

SUMMARY: In response to several requests, NMFS will hold a public hearing on two applications for scientific research permits to incidentally harass marine mammals by a low frequency sound source, and monitor its affects.

DATES: A public hearing will be held at 9:30 a.m. on March 22, 1994. A written copy of each presentation is requested on the day of the hearing. It is advised to limit the use of slides or overheads during presentations, and copies of any slides or overheads used are requested to be made available to NMFS on the day of the hearing.

Additional written comments may be sent to the address below, or may be sent by facsimile to 301/713–0376, and must be received by close of business March 25, 1994.

ADDRESSES: The public hearing will be held at Conference Room 4527, 1315 East-West Highway, SSMC III, Silver Spring, Maryland. The applications and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213 (310/980–4016); and

Coordinator, Pacific Area Office, NMFS, NOAA, 2570 Dole Street, room 106, Honolulu, HI 96822–2396 (808/955–8831).

FOR FURTHER INFORMATION CONTACT: Please contact the following individuals at least 48 hours in advance of the hearing if you plan to present comments so that a general agenda can be prepared, or at least 7 days in advance if you need additional information or special accommodations to attend the public hearing: Carol Fairfield or Jeannie Drevenak, 301/713–2289 or 301/713–0376 (facsimile). People who are deaf or hearing impaired may place a call through the Maryland Relay Service on 1–800–735–2258.

SUPPLEMENTARY INFORMATION: Two applications have been submitted by Scripps Institute of Oceanography, Institute for Geophysics and Planetary Physics, Acoustic Thermometry of Ocean Climate Program, 9500 Gilman Drive, La Jolla, CA 92093–0225.

On November 16, 1993, notice was published in the **Federal Register** (58 FR 60426) that a request for a scientific research permit (P557) was submitted, to take by incidental harassment, the following species of marine mammals for purposes of scientific research in waters off the northern coast of Kauai, Hawaii: Humpback whale (*Megaptera novaeangliae*), sperm whale (*Physeter macrocephalus*), pygmy sperm whale (*Kogia breviceps*), short-finned pilot whale (*Globicephala macrorhynchus*), Cuvier's beaked whale (*Ziphius cavirostris*), Baird's beaked whale (*Berardius bairdii*), Blainville's beaked whale (*Mesoplodon densirostris*), spinner dolphin (*Stenella longirostris*), spotted dolphin (*Stenella attenuata*), false killer whale (*Pseudorca crassidens*), rough-toothed dolphin (*Steno bredanensis*), bottlenose dolphin (*Tursiops truncatus*), and monk seal (*Monachus schauinslandi*).

On February 17, 1994, notice was published in the **Federal Register** (59 FR 7983) that a modification to the above scientific research permit application (P557) was submitted to request incidental harassment of sea turtles, and additional species of marine mammals which have only occasionally been observed in Hawaiian waters.

On February 3, 1994, notice was published in the **Federal Register** (59 FR 5177) that a request for a scientific research permit (P557A) was submitted, to take by incidental harassment several species of marine mammals and sea turtles for purposes of scientific research in waters off the coast of Pt. Sur, California.

These permit applications were to incidentally harass marine mammals by low frequency (70 Hz) sound sources at depths of 850–900m. These sources are part of the Acoustic Thermometry of Ocean Climate (ATOC) program, and will be operated from March 1994 through December 1995 off Hawaii, and from April 1994 through March 1996 off California. The maximum duty cycle will be 8%, with a transmission bandwidth of 20 Hz at a level of 195 dB (re 1 uPa at 1m), and with a spectrum level for the peak frequency (70 Hz) at 182 dB. The effects of these transmissions on marine mammals will be monitored through a variety of methods.

The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and fur seal regulations at 50 CFR part 215.

Dated: March 7, 1994.

Herbert W. Kaufman,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 94–5645 Filed 3–7–94; 4:18 pm]

BILLING CODE 3510–22–P

National Technical Information Service

NTIS Advisory Board Meeting

AGENCIES: National Technical Information Service, Technology Administration, U.S. Department of Commerce.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Technical Information Service Advisory Board (the "Board") will meet on Thursday, March 24, 1994, from 9 a.m. to 4 p.m. and on Friday, March 25, 1994, from 9 a.m. to 3 p.m. The afternoon session on March 24, 1994 will be closed to the public.

The Board was established under the authority of 15 U.S.C. 3704b(c), and was chartered in 1989. The Board is composed of five members appointed by the Secretary of Commerce after soliciting recommendations from the major users and beneficiaries of NTIS' activities and selecting individuals experienced in providing or utilizing technical information. The purpose of the meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda with include presentations on NTIS' implementation of the regulations under the American Technology Preeminence Act, NTIS plans to assist Depository Libraries, a review of the progress with FedWorld, and a discussion of the support services that NTIS provides to other agencies. The closed session discussion is scheduled to begin at 1 p.m. and end at 4 p.m. on March 24, 1994. The session will be closed because permature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS' business plan, and thereby cause a significant adverse effect on the Government financial interests.

DATES: The meeting will convene on March 24, 1994 at 9 a.m. and adjourn at 4 p.m., and will convene again on March 25, 1994 at 9 a.m. and adjourn at 3 p.m.

ADDRESSES: The meeting will be held in room 1412, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue NW., Washington, DC 20230.

PUBLIC PARTICIPATION: Except for the closed session from 1 to 4 p.m. on March 24, 1994, the meeting will be open to public participation. Approximately thirty minutes each day will be set aside for oral comments or questions as indicated in the agenda. Seats will be available to the public and to the media on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time. Copies of the minutes of the meeting will be available within thirty days of the meeting from the address given below.

FOR FURTHER INFORMATION CONTACT: Barbara Higgins, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. Telephone: 703–487–4612; Fax 703–487–4093.

Dated: February 25, 1994.

Donald R. Johnson,

Director.

[FR Doc. 94–5539 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

March 7, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: March 14, 1994.

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: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased for 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 58 FR 62645, published on November 29, 1993). Also see 58 FR 67397, published on December 21, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 7, 1994.

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 15, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on March 14, 1994, you are directed to increase the current limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Dominican Republic:

Category	Adjusted twelve-month limit [1]
338/638	708,550 dozen.
339/639	843,175 dozen.
342/642	513,305 dozen.
347/348/647/648	1,746,074 dozen of which not more than 1,249,698 dozen shall be in Categories 347/348 and not more than 831,038 dozen shall be in Categories 647/648.
443	139,031 numbers.
633	107,026 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The guaranteed access levels for the aforementioned categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–5618 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–DR–F

Extension of an Import Restraint Limit for Certain Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Myanmar

March 7, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs extending a limit.

EFFECTIVE DATE: March 14, 1994.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States Government has decided to continue the restraint limit on Categories 647/648/847 for an additional twelve-month period, beginning on March 1, 1994 and extending through February 28, 1995.

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 58 FR 64645, published on November 29, 1993). Also see 58 FR 13744, published on March 15, 1993.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 7, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 14, 1994, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber, silk blend and other vegetable fiber textile products in Categories 647/648/847, produced or manufactured in Myanmar and exported during the period beginning on March 1, 1994 and extending through February 28, 1995, in excess of 24,551 dozen. [1]

Imports charged to this category limit for the period March 1, 1993 through February 28, 1994 shall be charged against the level of restraint to the extent of any unfilled balance. Goods in excess of that limit shall be subject to the limit established in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–5619 Filed 3–9–94; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after Februay 28, 1994.

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Date of Meeting: Wednesday, March 22, 1994. 0800 to approximately 1700.

Place: The Sheraton National Hotel, Columbia Pike & Washington Bouelvard, Arlington, VA.

Matters to be Considered: Research and Development proposals requesting SERDP funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Maxwell or Mr. John Rupnik, 2200 Clarendon, suite 900, Arlington, VA 22201, 703–525–9400.

Dated: March 7, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–5578 Filed 3–9–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Second Annual Military Traffic Management Command Symposium

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command is hosting its Second Annual Symposium. The Symposium will be held at the Hyatt Regency Hotel (Airport) in Dallas/Fort Worth, Texas, April 24–28, 1994. The symposium program is designed for all transportation professionals as well as government transportation officers and military commanders. The intent of the symposium is to exchange ideas and information regarding current and future transportation issues that confront government and industry personnel.

DATES: Hotel/Symposium Registration may be obtained from Mr. Willie Hazel and should be submitted on or before March 29, 1994.

ADDRESSES: Comments and questions may be mailed to the Military Traffic Management Command, 5611 Columbia Pike, ATTN: MTOP–QSM, Falls Church, Virginia 22041–5050, or delivered to the Nassif Building, room 630, Falls Church.

FOR FURTHER INFORMATION CONTACT: Mr. Willie Hazel or Mr. Scott Johnson (703) 756–1590.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–5597 Filed 3–9–94; 8:45 am]

BILLING CODE 3710–08–M

Intent To Grant an Exclusive License for U.S. Patent Number 4,954,320, Reactive Bed Plasma Air Purification

AGENCY: U.S. Army Armament Research, Development and Engineering Center, DOD.

ACTION: Notice of intent.

SUMMARY: In accordance with 37 CFR 404.6 the Department of the Army announces its intent to grant an Exclusive License to Battelle Pacific Northwest Laboratories for Patent Number 4,954,320, Reactive Bed Plasma Air Purification. The technology is applicable to controlling gaseous/chemical/biological pollution contamination. Patent availability was announced in the **Federal Register** on 25 January 1994, 59 FR 3638.

DATES: Written objections must be filed within 60 days from the date of publication of this Notice in the **Federal Register.**

ADDRESSES: U.S. Army Armament Research, Development and Engineering Center, Picatinny Arsenal, NJ 07806–500.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Goldberg, Chief Patent Counsel, (201) 724–6590, Datafax Number (201) 724–5552.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–5598 Filed 3–9–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER93–94–001, et al.]

Northeast Utilities Service Co., et al.; Electric Rate and Corporate Regulation Filings

March 1, 1994.

Take notice that the following filings have been made with the Commission:

1. Northeast Utilities Service Co.

[Docket No. ER93–94–001]

Take notice that on February 16, 1994, Northeast Utilities Service Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Co.

[Docket No. ER93–154–000]

Take notice that on February 17, 1994, Pacific Gas and Electric Company (PG&E) supplemented its filing in this docket pursuant to FERC Staff's February 8, 1994, request for additional information and clarification for Agreement Nos. 14 and 27.

Copies of this filing have been served upon the parties on the service list including the California Public Utilities Commission.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Hampshire

[Docket No. ER93–417–001]

Take notice that on February 16, 1994, Public Service Company of New Hampshire tendered for filing an amendment in the above-referenced docket.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Electric Co.

[Docket No. ER94–217–000]

Take notice that on Commonwealth Electric Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Midwest Power Systems Inc.

[Docket No. ER94–351–000]

Take notice that on February 17, 1994, Midwest Power Systems Inc. (MPSI) tendered for filing Amendment No. 1 to the filing of a Transmission Wheeling Letter Agreement (Agreement) dated June 15, 1993, between Waverly Light & Power (Waverly) and MPSI. This Agreement provides a wheeling path over MPSI's 12.5 Kv distribution system for the delivery of capacity and energy derived from a wind generator owned and operated by Waverly to Waverly's municipal distribution system.

Amendment No. 1 contains additional support data and information.

MPSI states that copies of this filing were served on Waverly and the Iowa Utilities Board.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Co.

[Docket No. ER94–408–000]

Take notice that on February 17, 1994, Portland General Electric Company (PGE) tendered for filing a request for deferral of Commission action for sixty (60) days in the above Docket, to allow Commission staff to ask questions concerning the filed agreement, BPA Contract No. DE–MS79–93BP94034.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corp.

[Docket No. ER94–423–000]

Take notice that on February 23, 1994, Niagara Mohawk Power Corporation tendered for filing an amendment in the above-referenced docket.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Montana Power Co.

[Docket No. ER94–579–000]

Take notice that on February 18, 1994, Montana Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Pacific Gas and Electric Co.

[Docket No. ER94–976–000]

Take notice that on February 17, 1994, Pacific Gas and Electric Company (PG&E) tendered for filing a Transmission Rate Schedule for service provided to three member cities of the Northern California Power Agency (NCPA)—Healdsburg, Lompoc and Santa Clara, California (Cities)—for the period May through September, 1982. Filing of the Transmission Service Agreement is required by a settlement agreement between NCPA and PG&E concerning NCPA's power purchase from the Western Area Power Administration at that time. Service under the Agreement is required to fully implement that purchase and use of the power by Cities.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Consumers Power Co.

[Docket No. ER94–986–000]

Take notice that on February 24, 1994, Consumers Power Company (Consumers) tendered for filing Operating Practice 9 relating to reactive power control and compensation pursuant to the Coordinated Operating Agreement dated November 6, 1981 between Consumers and the Michigan South Central Power Agency.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER94–987–000]

Take notice that PacifiCorp, on February 24, 1994, tendered for filing, in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Exhibit A (Revision No. 17, effective September 30, 1993) to the February 25, 1976, Transmission Agreement (PacifiCorp Rate Schedule FERC No. 123) between PacifiCorp and Tri-State Generation and Transmission Association, Inc. (Tri-State).

Exhibit A specifies the projected maximum integrated demand in Kilowatts which Tri-State desires to have transmitted to its respective points of delivery by PacifiCorp.

PacifiCorp respectfully requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and an effective date of September 30, 1993, be assigned to Exhibit A, this date being consistent with the effective date shown on Exhibit A.

Copies of this filing were supplied to the Wyoming Public Service Commission.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Co.

[Docket No. ER94–988–000]

Take notice that on February 24, 1994, Arizona Public Service Company (APS) tendered for filing revised estimated load and contract/maximum demand Exhibits applicable under the following rate schedules:

APS-FPC/FERC No.	Customer	Exhibit name
52	Tohono O'odham Utility Authority ..	Exhibit 1.
82	Plains Electric G&T Cooperative, Inc.	Exhibit B.
128	Electrical District No. 7	Exhibit "II".

Current rate levels are unaffected, revenue levels are unchanged from those currently on file with the Commission, and no other significant change in service to these or any other customer results from the revisions proposed herein. No new or modifications to existing facilities are required as a result of these revisions.

A copy of this filing has been served on the above customers and the Arizona Corporation Commission.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Co.

[Docket No. ER94–989–000]

Take notice that on February 24, 1994, New England Power Company (NEP) submitted for filing eight proposed power sales contracts, and an amendment to an existing contract:

(1) System Power Sales Agreement dated November 10, 1993, with the Taunton Municipal Light Plant;
(2) System Power Sales Agreement dated November 10, 1993, with the Braintree Electric Light Department;
(3) System Power Sales Agreement dated November 10, 1993, with the Littleton Electric Light Department;
(4) Unit Power Contract dated January 13, 1994, with the Town of Holden Municipal Light Department;
(5) Unit Power Contract dated January 20, 1994, with the North Attleboro Electric Department;
(6) Unit Power Contract dated January 11, 1994, with the Hingham Municipal Light Plant;
(7) Unit Power Contract dated January 13, 1994, with the Groton Electric Light Department;
(8) Unit Power Contract dated January 14, 1994, with the Middleton Municipal Light Department; and
(9) First Amendment dated December 3, 1993, to System Power Sales Agreement dated August 10, 1993, with the Shrewsbury Electric Light Plant.

NEP states that the contracts are for system or unit power, ranging in amount from 0.5 to 10 megawatts, for a term of from 10 to 30 years. The contracts are part of a settlement of proceedings involving a coal-fired cogeneration unit proposed to be constructed by the Newbay Corporation. NEP further states that the revenue under the contracts will not exceed the cost of the service provided.

Comment date: March 15, 1994, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5501 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–P

Floodplain/Wetland Involvement for Bridge Replacement at Savannah River Site (F-Road Bridge 603–03G)

AGENCY: Department of Energy (DOE).

ACTION: Notice of floodplain and wetland involvement.

SUMMARY: DOE proposes to repair Bridge 603–03G located on F-Road on the Savannah River Site (SRS) near Aiken, South Carolina. The bridge to be repaired is located in the floodplain of Upper Three Runs Creek that is currently, and should remain, a relatively unimpacted floodplain. Repair activities would involve restoring and preserving decayed or rotten timber piles using a pile jacketing system. This involves setting fiberglass, concrete, or steel in place around the pile and filling the jacket with epoxy grout or concrete. Cofferdams (watertight temporary structures for keeping water from an inclosed area) will be required at each pile, and rip rap (foundation of broken stones) will be placed on each embankment under the bridge. Most of the work will be accomplished from the present roadbed using cranes and scaffolding or other work platforms attached to the bridge deck. In accordance with title 10, Code of Federal Regulations (CFR), part 1022, DOE will prepare a floodplain/wetland assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands.

DATES: Comments on the proposed actions are due on or before March 25, 1994.

ADDRESSES: Comments should be addressed to Floodplain/Wetlands Comments, Stephen R. Wright, Director, Environmental and Laboratory Programs Division, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802. The phone number is (803) 725–3957. Fax comments to: (803) 725–7688.

FOR FURTHER INFORMATION ON GENERAL FLOODPLAIN/WETLANDS ENVIRONMENTAL REVIEW REQUIREMENTS, CONTACT: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U. S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202) 586–4600 or (800) 472–2756.

Further information, including a location map showing the repair site, can be obtained from the Savannah River Operations Office (see addresses above).

SUPPLEMENTARY INFORMATION: DOE proposes to repair F-Road Bridge 603–03G, that provides service to approximately 35 percent of daily SRS traffic. The present deteriorated condition of the bridge has resulted in load for the structure being restricted to a capacity of 15 tons gross weight that prevents tractor-trailers, fire fighting equipment, and other emergency vehicles from crossing the bridge and unless repaired, may be required to be closed to all traffic. Bridge supports to be repaired are in the floodplain of Upper Three Runs Creek that is currently, and should remain, a relatively unimpacted floodplain. The bridge will be repaired by restoring all deteriorated, decayed, or rotten timber piles having a section loss greater than

55 percent using a pile jacketing system. These activities will include: (1) A quantitative inspection on each timber pile that may include an underwater inspection and (2) pile restoration that will include setting a fiberglass, concrete, or steel jacket in place around the timber pile and filling the jacket with epoxy grout or concrete. Most of the work will be accomplished from the present roadbed using cranes to repair the bridge supports. Platforms may be lowered into the floodplain to support equipment and serve as a work base. These will be removed when the project is completed in approximately 2 months. A cofferdam may be installed around the piles to allow the water and mud to be pumped from around the pillars being repaired. This dam will be kept to the minimum size that is necessary to complete the task. At no time will mud pumped from the cofferdams be released into the stream. When repairs are complete, approximately 400 square feet of clean stone will be placed on the abutments at each end of the bridge inside the cofferdam to reduce sediment levels once the cofferdams are removed. The lower few feet of these slopes are in wetlands. Vegetation is sparse because of shade from the bridge. The impact will be limited to traffic near and under the bridge that will result in no long-term impact to the wetlands.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR 1022), DOE will prepare a floodplain/wetland assessment for this proposed DOE action. After DOE issues the assessment, a Floodplain Statement of Findings will be published in the **Federal Register**.

Issued in Washington, DC, on this 4th day of March 1994.

Donald F. Knuth,

Deputy Assistant Secretary for Facility Transition and Technical Support Defense Programs.

[FR Doc. 94–5604 Filed 3–9–94; 8:45 am]

BILLING CODE 6450–01–P

[Docket No. RP94–170–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 2, 1994, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of April 1, 1994:

Third Revised Sheet No. 97.

Algonquin states that the purpose of this filing is to provide for the recovery of certain transition costs associated with upstream capacity retained by Algonquin. Specifically, Algonquin seeks to recover gas supply realignment costs ("GSR Costs") billed to Algonquin by Texas Eastern Transmission Corporation (Texas Eastern). Algonquin requests that the Commission waive section 154.22 of the Commission's regulations to the extent that may be necessary to place this tariff sheet into effect as requested.

Algonquin states that copies of this filing were mailed to all customers of Algonquin and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5517 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–246–000]

Allegheny Power Service Corp.; Filing

March 4, 1994.

Take notice that on January 13, 1994, Allegheny Power Service Corporation tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 10, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5558 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–166–000]

Arkla Energy Resources Co.; Filing

March 4, 1994.

Take notice that on March 1, 1994, Arkla Energy Resources Company (AER) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets to become effective April 1, 1994:

Third Revised Sheet No. 4
Third Revised Sheet No. 4.1

AER states that these revised tariff sheets are filed in compliance with the Stipulation and Agreement ("Stipulation") approved by Commission order in Docket No. RP91–49–000 on March 31, 1992. 58 FERC ¶ 61,359 (1992).

Pursuant to the Stipulation, the proposed tariff sheets reflect the final reconciliation of the CSC Rate Credit.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5512 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–236–000, et al.]

CNG Transmission Corp., et al.; Natural Gas Certificate Filings

March 1, 1994.

Take notice that the following filings have been made with the Commission:

1. CNG Transmission Corp.

[Docket No. CP94–236–000]

Take notice that on February 18, 1994, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP94–236–000 a request, as supplemented on February 28, 1994, pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate additional measuring and regulating facilities at an existing delivery point to Washington Gas Light Company (WGL) under CNG's blanket certificate issued in Docket No. CP82–537–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, CNG proposes to construct and operate additional measuring and regulating facilities at its existing Dickerson M & R Station in Montgomery County, Maryland. CNG states that it would use the facilities to deliver natural gas to WGL for service to the Montgomery County Resource Recovery Facility. CNG further states that service to WGL would be provided under an existing firm transportation contract dated September 30, 1993, and CNG's Rate Schedule FTNN. The maximum daily volume under the contract is 60,224 Dt per day, it is stated. CNG estimates the average daily delivery to the Montgomery County facility would be 110 Mcf per day.

CNG estimates the cost of the facilities to be $550,000, which would be paid for by WGL. CNG asserts that CNG and WGL would equally share costs in excess of $550,000.

CNG states that it has sufficient system delivery capacity to deliver the existing contract quantities to WGL without disadvantaging its existing customers and that such deliveries will have a *de minimis* impact on its systemwide peak and annual deliveries.

Comment date: April 15, 1994, in accordance with Standard Paragraph G at the end of this notice.

2. Algonquin Gas Transmission Co.

[Docket No. CP94–238–000]

Take notice that on February 22, 1994, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, MA 02135, filed in Docket No. CP94–238–000 a request pursuant to §§ 157.205(b) and 157.212 of the Regulations under the Natural Gas Act for authorization to add a delivery point for New England Power Company (NEP), an existing customer, for service under Algonquin's existing Rate Schedule X–38 under the certificate issued in Docket No. CP87–317–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Algonquin states that the proposed delivery point would have a maximum daily delivery obligation of zero for NEP under Rate Schedule X–38, and would be located at an existing meter station in Milford, Massachusetts constructed for deliveries to Milford Power Limited Partnership. Algonquin avers that the addition of the proposed delivery point will not increase the Maximum Daily Transportation Quantity under Rate Schedule X–38 and that no additional facilities are required. Algonquin indicates that NEP requested that Algonquin establish the additional delivery point.

Comment date: April 15, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. Koch Gateway Pipeline Co.

[Docket No. CP94–244–000]

Take notice that on February 22, 1994, Koch Gateway Pipeline Company (Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP94–244–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon delivery facilities under Gateway's blanket certificate issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. [1]

Gateway proposes to abandon approximately 5,000 feet of 12-inch lateral pipeline and the associated meter station by sale of the pipeline to Liquid Carbonics, Inc. (Liquid Carbonics), and the transfer of the metering facilities to Gateway's inventory. Gateway states that the facilities have been used to provide transportation service to Arcadian Corporation's (Arcadian) ammonia plant located in Calcasieu Parish, Louisiana. Gateway explains that, due to a catastrophic failure caused by an explosion at the plant in July 1992 and since Arcadian does not plan to rebuild the facility, Gateway has arranged to sell the 12-inch pipeline to Liquid Carbonics. Gateway advises that Arcadian is the only Gateway customer served through the line. Gateway further explains that the pipeline would be used by Liquid Carbonics for the transmission of hydrogen gas and not for the transportation of natural gas in interstate commerce. Gateway states that (a) the facilities originally cost $868,563, (b) Liquid Carbonics would pay $275,000 for the lateral, (c) the salvage value of the metering facilities is $203,739 and (d) the removal cost is estimated to be $41,000.

Comment date: April 15, 1994, in accordance with Standard Paragraph G at the end of this notice.

4. Tennessee Gas Pipeline Co.

[Docket No. CP94–250–000]

Take notice that on February 24, 1994, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP94–250–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a new delivery point for deliveries of natural gas to East Kentucky Power Cooperative, Inc. (East Kentucky), under Tennessee's blanket certificate issued in Docket No. CP87–115–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Tennessee proposes to install two 12" hot tap assembles at an estimated cost of $112,935, of which, 100% would be reimbursable by East Kentucky.

Comment date: April 15, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

[1] Gateway was formerly United Gas Pipe Line Company. Gateway indicates that the name change was effective August 24, 1993.

authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5502 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. TM94–3–32–000]

Colorado Interstate Gas Co.; Tariff Filing

March 4, 1994.

Take notice that on March 2, 1994, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 11, reflecting a decrease in the fuel reimbursement percentage for Lost, Unaccounted-For and Other Fuel Gas from 0.52% to 0.49% effective April 1, 1994.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies, and that the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.214 and 385.211). All such petitions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5519 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–157–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with the proposed effective date of April 1, 1994:

Fourth Revised Sheet No. 25
Fourth Revised Sheet No. 26
Fourth Revised Sheet No. 27
Fourth Revised Sheet No. 28
Third Revised Sheet No. 30A
Third Revised Sheet No. 30B
Third Revised Sheet No. 30C
Third Revised Sheet No. 30D

Columbia tendered the instant filing pursuant to Section 36, Transportation Costs Rate Adjustment (TCRA), of the General Terms and Conditions of its FERC Gas Tariff. The TCRA rates reflect and transportation costs applicable to the projected period April 1, 1994 through March 31, 1995. The TCRA Surcharge reflects the unrecovered, Account No. 858 amounts as of December 31, 1993.

Columbia states that copies of the filings were served upon Columbia's firm jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5505 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–158–000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with the proposed effective date of April 1, 1994:

First Revised Sheet No. 94
Original Sheet No. 96
Original Sheet No. 97
Original Sheet No. 98

Columbia states that the instant limited section 4(e) filing represents Columbia's initial filing pursuant to section 39, Account No. 191 Reconciliation Mechanism, of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, to recover the as adjusted balance in its Account No. 191.

Columbia states that copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5506 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–3–70–000]

Columbia Gulf Transmission Co.; Filing

March 4, 1994.

Take notice that on March 1, 1994, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing the following information.

Columbia Gulf states that the instant limited Section 4(e) filing represents Columbia Gulf's first annual filing pursuant to Section 33, Transportation Retainage Adjustment (TRA), of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Based upon Columbia gulf's examination of the retainage percentages contained in its currently effective tariff, Columbia Gulf states that it has determined that no change in the retainage factor is warranted at this time. Columbia Gulf also states that it will monitor its operations and make future adjustments to the retainage factor if necessary. Columbia Gulf requested any necessary waivers of Section 33 that may be necessary to retain the current retainage factor.

Columbia Gulf states that copies of the filing were served upon Columbia Gulf's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5522 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–5–21–000]

Columbia Gas Transmission Corp.; Filing

March 4, 1994.

Take notice that on March 1, 1994, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following information.

Columbia states that the instant limited section 4(e) filing represents Columbia's first annual filing pursuant to section 35, Transportation Retainage Adjustment (TRA), of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. Based upon Columbia's examination of the retainage percentages contained in its currently effective tariff, Columbia states that it has determined that no change in the retainage factor is warranted at this time. Columbia also states that it will monitor its operations and make future adjustments to the retainage factor if necessary. Columbia requested any necessary waivers of section 35 that may be necessary to retain the current retainage factor.

Columbia states that copies of the filing were served upon Columbia's firm customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5524 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–167–000 and TM94–4–33–000]

El Paso Natural Gas Co.; Tariff Filing

March 4, 1994.

Take notice that on March 1, 1994, El Paso Natural Gas Company (El Paso) tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's (Commission) Regulations Under the Natural Gas Act and in accordance with sections 22 and 21, Take-or-Pay Buyout and Buydown Cost Recovery, of its First Revised Volume No. 1–A and Second Revised Volume No. 1 FERC Gas Tariff, respectively, tariff sheets which reflect (i) an updated Monthly Direct Charge and Throughout Surcharge to reflect additional principal dollars to be amortized based upon recently paid buyout and buydown costs associated with contracts that were in litigation or arbitration as of March 31, 1989, which have not been included in any of El Paso's previous filings to the Monthly Direct Charge and Throughput Surcharge for interest which includes the additional dollars to be amortized set forth therein.

El Paso states that it proposed to amortize the direct bill portion (25%) of the additional take-or-pay amount included in its instant filing over a twelve month direct bill amortization period extending through March 31, 1995. El Paso proposed that the throughput surcharge attributable to the recovery of the amount in the instant filing be amortized over a period commencing April 1, 1994 through March 31, 1996 which is consistent with El Paso's authorization at Docket No. RP92–115–000 to consolidate the amortization periods for the volumetric surcharge from each previous take-or-pay filing into a single amortization period terminating March 31, 1996. El Paso states that the Throughput Surcharge has decreased $0.0001 per dth, from $0.0372 per dth to $0.0371 per dth.

El Paso states that §§ 21.4(d)(iii) and 21.5(c)(iii) contained in its Second Revised Volume No. 1 Tariff provide for adjustments to El Paso's Monthly Direct Charge and Throughput Surcharge for interest calculated on the unrecovered balance of El Paso's buyout and buydown costs. El Paso states that no adjustment for differences between calculation of the actual and estimated interest rate was necessary for the period August 1, 1993 through January 31, 1994 since the rates were the same.

El Paso requested that the Commission accept the tendered tariff sheets for filing and permit them to become effective April 1, 1994, which is not less than thirty (30) days following the date of the filing.

El Paso states that copies of the filing were served upon all customers of El Paso subject to Sections 22 and 21 of El Paso's Volume Nos. 1–A and 1 FERC Gas Tariff, respectively, and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5513 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–3–34–000]

Florida Gas Transmission Co.; Compliance Filing

March 4, 1994.

Take notice that on March 1, 1994, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets with a proposed effective date of April 1, 1994:

Second Revised Sheet No. 8A
Second Revised Sheet No. 8B

FGT states that Section 27 of its FERC Gas Tariff, Third Revised Volume No. 1 provides that FGT will file a Fuel Reimbursement Charge Adjustment to be effective each April 1 and October 1. Section 27.C provides that the Current Fuel Reimbursement Charge Percentage

shall be based on the actual fuel usage and lost and unaccounted for gas and the volumes delivered during the six-month period commencing one year prior to the effective date of the Fuel Reimbursement Charge Adjustment. The instant filing is submitted in conformance with the provisions of the tariff and in anticipation of the April 1 effective date.

FGT states that submitted with the instant filing is a work paper reflecting company use fuel, lost and unaccounted for volumes, and FGT deliveries for the period April 1 through September 30, 1993. The ratio of fuel usage and unaccounted for volumes to actual deliveries determined in accordance with section 27 of FGT's tariff and reflected on the attached work paper is calculated to be 3.14%.

Furthermore, Section 27 of FGT's tariff specifically provides that the deliveries to be used to compute the Fuel Reimbursement Charge will be the actual quantity of gas delivered by FGT for the account of Shippers under Rate Schedules FTS–1, SFTS, PTS–1, PRS or ITS–1, excluding backhaul and pooling volumes. Because Rate Schedules SFTS and PRS did not become effective until November 1, 1993, the effective date of FGT's tariff, and because FGT was still providing a bundled merchant service during the period from April 1 through September 30, 1993, FGT has reflected on the attached work paper the actual deliveries to both sales and transportation customers, adjusted to eliminate backhauls and downstream transportation contracts on FGT.

FGT is filing to make the attached tariff sheets reflecting the Current Fuel Reimbursement Charge Percentage of 3.14% effective April 1, 1994.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate actions to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5520 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–162–000]

High Island Offshore System; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, High Island Offshore System (HIOS) filed, pursuant to Section 4 of the Natural Gas Act, for a general increase in its transportation rates, proposing an effective date of April 1, 1994.

According to the filing, HIOS attributes the need for an increase in rates primarily to declining levels of firm service contracts and to changes in the mix of the firm and interruptible volumes that make up its system throughput. HIOS also states that its filed cost of service is substantially the same as its cost of service in its pending rate case in Docket Nos. RP93–59–000, et al., although increases in certain cost components are proposed.

HIOS requests the removal of the 100% load factor rate design condition for designing its rate, which was imposed in Docket Nos. CP75–104, et al.

HIOS also proposes to remove from its tariff the 90/10 interruptible revenue crediting provision that was imposed in Docket No. RS92–64–000.

HIOS states that copies of the filing have been served on all affected shippers.

Any person desiring to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211, 385.214. All protests and motions to intervene must be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A, Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5509 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–104–009 and RP92–131–010]

KN Energy, Inc.; Report of Refunds

March 4, 1994.

Take notice that on January 14, 1994, KN Energy, Inc. (KN) tendered for filing with the Federal Energy Regulatory Commission (Commission) its refund report in the above captioned dockets. KN states that the refunds were made in compliance with the Commission's order dated November 17, 1993.

KN states that the report shows that on December 15, 1993, KN refunded $139,312.50, including interest, to its sales transportation and gathering customers for the period June 1, 1993 through September 30, 1993.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5503 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket No. RP94–169–000]

Natural Gas Pipeline Company of America; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 2, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Third Revised Sheet No. 14 and Second Revised Sheet No. 25, to be effective April 1, 1994.

Natural states that the filing is submitted to commence recovering effective April 1, 1994, $131,352 net premium paid for coal gasification supplies which is part of its gas supply realignment program.

Natural requested whatever waivers may be necessary to permit the tariff sheets as submitted herein to become effective April 1, 1994.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Natural states that it has reached a tentative settlement with members of the Natural Customer Group (NCG) regarding recovery from them of GSR costs. Members of the NCG may

preserve their rights by filing an abbreviated protest which may be supplemented if the settlement is not finalized and approved.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5516 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–3–37–000]

Northwest Pipeline Corporation; Proposed Change in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff the following tariff sheets with a proposed effective date of April 1, 1994:

Third Revised Volume No. 1
Second Revised Sheet No. 14
Original Volume No. 2
Eleventh Revised Sheet No. 2.1

Northwest states that the purpose of this filing is to implement new fuel use requirements factors ("Factors"), consistent with Northwest's Tariff. Pursuant to Section 14.12 of the General Terms and Conditions contained in Northwest's FERC Gas Tariff, Third Revised Volume No. 1, and pursuant to Section 5 of Sheet No. 2.1 of Original Volume No. 2, the Factors shall be determined each year to become effective April 1.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers and upon affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5521 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–154–000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1, with a proposed effective date of April 1, 1994.

Northern states that the filing revises the currently effective Stranded Account No. 858 and Stranded Account No. 858–R.A. surcharges to recover costs incurred by Northern related to its contracts with third-party pipelines. Therefore, Northern has filed Sixth Revised Sheet Nos. 50 and 51, and Eighth Revised Sheet No. 53 to revise these surcharges effective April 1, 1994.

Northern states that copies of this filing were served upon Northern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before March 11, 1994. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant a party to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5504 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–168–000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with a proposed effective date of April 1, 1994:

Third Revised Volume No. 1

Third Revised Sheet Nos. 5, 5–A and 8
Alternate Third Revised Sheet Nos. 5, 5–A and 8

Original Volume No. 2

Seventeenth Revised Sheet No. 2.2

Northwest states that the above listed tariff sheets are filed for the purpose of removing the Commodity SSP Surcharge from Northwest's Statement of Rates. The removal is necessary because the Commission approved recovery period, as outlined in Section 19 of Northwest's General Terms and Conditions, has elapsed.

Northwest also states that it has made the aforementioned changes to sheets that have been filed with but not yet accepted by the Commission. Second Revised Sheet Nos. 5, 5–A and 8 were submitted to implement the Joint Offer of Settlement which was filed January 28, 1994. In the event that the Commission has not made Second Revised Sheet Nos. 5, 5–A and 8 effective prior to effectiveness of the tariff sheets in the instant filing or has rejected or otherwise delayed the effectiveness of such sheets, Northwest has included Alternate Third Revised Sheet Nos. 5, 5–A and 8 which reflect the SSP Surcharge removal from the currently effective tariff rates.

Northwest further states that a copy of this filing has been served upon Northwest's jurisdictional customers and state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5515 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–160–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets as reflected in Appendix A to the filing, with a proposed effective date of April 1, 1994.

Panhandle states that such changes are made to establish a new storage rate schedule for flexible winter storage service, designated as Rate Schedule FS. Service under Rate Schedule FS will be consistent with Panhandle's blanket type certificate authorization under Part 284 of the Regulations and will comport with the mandates of Order No. 636 and the Commission authorized restructuring for the Panhandle system.

Panhandle states that copies of this filing have been served upon Panhandle's jurisdictional customers and applicable state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions and protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5507 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–165–000]

Southern Natural Gas Co.; GSR Cost Recovery Filing

March 4, 1994.

Take notice that on March 1, 1994, Southern Natural Gas Company (Southern) filed pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. 717(c) (1988), to recover gas supply realignment (GSR) costs incurred as a consequence of Southern's implementation of restructured pipeline services under Order No. 636, et seq. Southern states that the tariff sheets identified below were filed in compliance with the Commission's order in Southern's restructuring proceeding in Docket No. RS92–10–000 and the procedures set forth in Section 31 of the General Terms and Conditions of Southern's FERC Gas Tariff, Seventh Revised Volume No. 1:

Fifth Revised Sheet No. 15
Alternate Fifth Revised Sheet No. 15
Fifth Revised Sheet No. 17
Alternate Fifth Revised Sheet No. 17
Fifth Revised Sheet No. 18
Fourth Revised Sheet No. 29
Fourth Revised Sheet No. 30
Fourth Revised Sheet No. 31

Southern states that it sets forth in this filing the revised demand surcharges and revised interruptible rates that will be charged in connection with its recovery of GSR costs associated with the payment of price differentials under unrealigned gas supply contracts and transactional costs incurred in continuing realignment efforts during the period November 1, 1993 through January 31, 1994. These GSR costs have arisen as a direct result of customers' elections during restructuring to terminate their sales entitlements under Order No. 636. Southern requests that the tariff sheets be made effective April 1, 1994.

Southern states that it seeks to recover $17.5 Million in GSR costs plus pre-filing interest, which Southern has either paid or incurred as price differentials under its unrealigned contracts or as transactional costs in its continuing realignment efforts during the period November 1, 1993 through January 31, 1994. Southern states that these GSR costs have arisen as a direct result of the need to realign gas supply contracts following customers' elections during restructuring to terminate their sales entitlements under Order No. 636. Southern further states that none of the GSR costs sought to be recovered in the instant filing constitute take-or-pay settlement costs under gas supply contracts existing at March 31, 1989 which would be subject to the provisions of Southern's 1988 take-or-pay settlement in Docket No. RP86–63–000.

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5511 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–10–29–000]

Transcontinental Gas Pipe Line Corp.; Filing

March 4, 1994.

Take notice that on March 2, 1994, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, certain revised tariff sheets enumerated in Appendix A attached to the filing, with a proposed effective date of April 1, 1994.

TGPL states that the instant filing is submitted pursuant to Section 38 of the General Terms and Conditions of TGPL's FERC Gas Tariff which provides that TGPL will file, to be effective each April 1, a redetermination of its fuel retention percentages applicable to transportation and storage rate schedules. The derivation of the revised fuel retention percentages included therein are based on TGPL's estimate of gas required for operations (GRO) for the forthcoming annual period April 1994 through March 1995 plus the balance accumulated in the Deferred GRO Account at January 31, 1994.

On this date TGPL states that it is serving copies of the instant filing to its customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5525 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–11–29–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 2, 1994, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, certain revised tariff sheets, which tariff sheets are enumerated in Appendix A to the filing. The proposed effective date of the attached tariff sheets is April 1, 1994.

TGPL states that the instant filing is submitted pursuant to section 41 of the General Terms and Conditions of TGPL's FERC Gas Tariff which provides that TGPL will file to reflect net changes in the Transmission Electric Power (TEP) rates 30 days prior to each TEP Annual Period beginning April 1. TGPL states that in Appendix B to the filing are workpapers supporting the derivation of the revised TEP rates reflected on the tariff sheets included therein.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5526 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–164–000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Trunkline Gas Company (Trunkline) tendered for filing revised tariff sheets which reflect an increase in rates. Trunkline requests an effective date of April 1, 1994.

Trunkline states that this filing is being made in accordance with the provisions of section 4 of the Natural Gas Act and in compliance with Article V of the Stipulation and Agreement (Settlement) dated January 25, 1993, as approved by Commission letter order dated February 24, 1993 in Docket No. RP92–165–000.

Trunkline further states that the rate changes proposed are necessary in light of the current and projected cost of operations—$179.5 million—as well as changes in the projected demands on and use of the Trunkline system.

In addition, Trunkline states that also included in this filing are certain changes—largely in the nature of clarifications—to certain provisions of various transportation rate schedules and the tariff's General Terms and Conditions are proposed in this filing, as set forth in the revised tariff sheets submitted and as detailed in the Statement of the Nature, Reasons and Basis for the Changes.

Trunkline requests waiver of any provisions of the Commission's Regulations which may be necessary to make the tariff sheets and rates provided for herein effective.

Trunkline states that copies of the rate filing or summary version thereof are being served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5510 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–167–001]

Trunkline Gas Co.; Compliance Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets attached to the filing as Appendices A and B. Trunkline proposes that these revised tariff sheets become effective September 1, 1993 and November 1, 1993, respectively.

Trunkline states that the Commission's February 2, 1994, Order requires Trunkline to modify the tariff language contained in section 27(B), Stranded Costs, of its General Terms and Conditions to: (1) Clarify that both rate increases and decreases and credits will be included as part of the true-up mechanism; (2) provide for credits and refunds to interruptible shippers; and (3) extend the recovery period to the length of the longest contract. Trunkline states that the tariff sheets submitted herewith conform to those Commission requirements.

Trunkline further states that it has served a copy of the filing on its jurisdictional customers, affected state commissions and parties to the proceeding in the above-referenced docket number.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are

on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5514 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–4–30–000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 1, 1994:

Third Revised Sheet No. 6
Third Revised Sheet No. 7
Third Revised Sheet No. 8
Third Revised Sheet No. 9
Third Revised Sheet No. 10

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of the General Terms and Conditions in Trunkline's FERC Gas Tariff, First Revised Volume No. 1, and also complies with the Commission's Orders dated March 2, 1993 and August 4, 1993 in Docket Nos. RP89–160–000 and RP92–165–000, directing Trunkline to use an "additive zone" approach for transportation rates and fuel reimbursement percentages.

Trunkline further states that the revised tariff sheets filed herewith reflect: (1) The following decreases to the Current Fuel Reimbursement Percentages, pursuant to section 22.3, (0.78%) (Field Zone to Zone 2), (0.63%) (Field Zone to Zone 1), (0.20%) (Field zone only), (0.65%) (Zone 1 to Zone 2), (0.50%) (Zone 1 only) and (0.22%) (Zone 2 only); and (2) no change in the Annual Fuel Reimbursement Surcharge, pursuant to section 22.4.

Trunkline states that copies of this filing have been served on all jurisdictional transportation customers and affected states commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5523 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–161–000]

U–T Offshore System; Proposed Changes in FERC Gas Tariff

March 4, 1994.

Take notice that on March 1, 1994, U–T Offshore System (U–TOS) filed, pursuant to Section 4 of the Natural Gas Act, for a general increase in its transportation rates, proposing an effective date of April 1, 1994.

According to the filing, U–TOS attributes the need for an increase in rates primarily to declining levels of firm service contracts and to changes in the mix of the firm and interruptible volumes that make up its system throughput. U–TOS also states that its filed cost of service is substantially the same as its cost of service in its pending rate case in Docket Nos. RP93–61–000, et al.

U–TOS states that, based upon volumes transported during the base period, as adjusted, the proposed rates will result in an increase in annual revenues to U–TOS of approximately $1.0 million when compared to the annual revenues generated by presently approved SFV compliance rates, subject to refund, in Docket No. RS92–88.

U–TOS requests the removal of the 100% load factor rate design condition for designing its rate, which was imposed in Docket Nos. CP76–118, et al.

U–TOS also proposes to remove from its tariff the 90/10 interruptible revenue crediting provision that was imposed in Docket No. RS92–88–000.

U–TOS states that copies of the filing have been served on all affected shippers.

Any person desiring to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 and Rule 214 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211, 385.214. All protests and motions to intervene should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5508 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ94–2–35–000]

West Texas Gas, Inc.; Filing

March 4, 1994.

Take notice that on March 1, 1994, West Texas Gas, Inc. (WTG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Tenth Revised Sheet No. 4, proposed to be effective April 1, 1994.

WTG states that this tariff sheet and the accompanying explanatory schedules constitute WTG's quarterly PGA filing submitted in accordance with the Commission's purchased gas adjustments regulations.

WTG states that copies of the filing were served upon WTG's customers and interested state commissions.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before March 11, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 94–5518 Filed 3–9–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4847–6]

Public Water Supply Supervision Program Revision for the State of Tennessee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that the State of Tennessee is revising its approved State Public Water Supply Supervision Primacy Program. Tennessee has adopted drinking water regulations for the Phase V (Volatile Organic Chemicals (VOC), Synthetic Organic Chemicals (SOC), and Inorganic Chemicals (IOC)) Rule. EPA has determined that this set of State program revisions is no less stringent than the corresponding Federal regulations. Therefore, EPA has tentatively decided to approve this State program revision.

All interested parties may request a public hearing. A request for a public hearing must be submitted by April 11, 1994 to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made by April 11, 1994, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective April 11, 1994.

Any request for a public hearing shall include the following:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

State of Tennessee, Department of Environment and Conservation, Division of Water Supply, 6th Floor, L&C Tower, 401 Church Street, Nashville, Tennessee 37243–1549.

Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Philip H. Vorsatz, EPA, Region IV Drinking Water Section at the Atlanta address given above (telephone (404) 347–2913, (FAX) (404) 347–1798).

Authority: (Sec. 1413 of the Safe Drinking Water Act, as amended (1986), and 40 CFR 142.10 of the National Primary Drinking Water Regulations).

Dated: February 17, 1994.

Don Guinyard,

Acting Regional Administrator, EPA, Region IV.

[FR Doc. 94–5425 Filed 3–9–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4848–2]

Michigan: Final Partial Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination of partial program adequacy for Michigan's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (USEPA) to determine whether States have adequate permit programs for MSWLFs, but does not mandate issuance of a rule for such determinations. The USEPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which the USEPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as final applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility. The USEPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the revised Federal MSWLF Criteria will apply to all permitted and unpermitted MSWLF facilities.

Michigan applied for a partial program determination of adequacy under section 4005 of RCRA. The USEPA reviewed Michigan's application and made a tentative determination of adequacy for those portions of the State's MSWLF permit program that are adequate to ensure compliance with the revised Federal MSWLF Criteria. After consideration of all comments received, the USEPA is today issuing a final determination for those portions of the State's program that are adequate. The State plans to revise the remainder of its permit program to ensure complete compliance with the revised Federal MSWLF Criteria, and gain full program approval.

EFFECTIVE DATE: The determination of adequacy for Michigan shall be effective on March 10, 1994.

FOR FURTHER INFORMATION CONTACT: USEPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Attn: Mr. Andrew Tschampa, mailcode HRP–8J, telephone (312) 886–0976.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, the USEPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the revised Federal Criteria under part 258. Subtitle D also requires in section 4005 that the USEPA determine the adequacy of State MSWLF permit programs to ensure compliance with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

USEPA intends to propose in STIR to allow partial approvals if:

(1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with 40 CFR part 258;

(2) Changes to a limited, narrow part(s) of the State/Tribal program are needed to meet these requirements; and

(3) Provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of 40 CFR part 258.

The requirements of the STIR, if promulgated, will ensure that any mixture of State/Tribal and Federal rules that take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR rule. Consequently, USEPA reviewed the program approved today and concluded that the State/Tribal and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Criteria's flexibility for those portions of the program that have been approved. Federal rules covering any portion of a State/Tribe's program that have not received USEPA's approval apply directly to owners and operators.

As provided in the revised Federal Criteria, USEPA's national Subtitle D standards took effect on October 9, 1993. On October 1, 1993, the USEPA published a final ruling which modified the effective date of the landfill criteria for certain classifications of landfills (58 FR 51536). Thus, for certain small landfills that accept less than 100 tons of waste per day, the Federal landfill criteria will not be effective until April 9, 1994, instead of October 9, 1993. Consequently, any portions of the revised Federal MSWLF Criteria which are not included in a State/Tribal MSWLF program by October 9, 1993, would apply directly to owners and operators of large MSWLFs, and portions not included by April 9, 1994, would apply directly to owners and operators of certain small MSWLFs. The exact classifications of landfills and details on the effective date extensions are contained in the final rule. See 58 FR 51536 (October 1, 1993).

The USEPA will review State/Tribal requirements to determine whether they are "adequate" under section 4005(c)(1)(C) of RCRA. The USEPA interprets the requirements for States or Tribes to develop adequate programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to USEPA's revised MSWLF Criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe must also provide for public participation in permit issuance and enforcement, as required in section 7004(b) of RCRA. Finally, the USEPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

The USEPA Regional offices will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. The USEPA plans to provide more specific criteria for this evaluation when it proposes the STIR. The USEPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF permit program before it gives full approval to a MSWLF program. The USEPA is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. The USEPA notes that it intends to propose to make submission of a schedule mandatory in the STIR.

B. State of Michigan

On October 6, 1993, Michigan submitted an application to obtain a partial program adequacy determination for the State's MSWLF permit program. On December 22, 1993, the USEPA published a tentative determination of partial program adequacy for the Michigan program. Further background information on the tentative determination appears in 58 FR 67786 (December 22, 1993). In its application, Michigan demonstrated that the State's permit program adequately meets the general requirements, location restrictions, operating criteria, design criteria, groundwater monitoring and corrective action requirements, and closure and post-closure care requirements in the revised Federal Criteria. The State's existing permit program will ensure full compliance with all of the revised Federal Criteria except the provisions in 40 CFR 258.53(b) which ban the field-filtering of groundwater samples, and financial assurance requirements found in 40 CFR 258.70.

Michigan demonstrated that the State's MSWLF permit program has the authority to issue permits incorporating the requirements of the revised Federal Criteria for all MSWLFs in the State. The USEPA determined that Michigan's permit program contains provisions for public participation, compliance monitoring, and enforcement.

Michigan's permitting process includes a procedure for ensuring that public comments made during review of MSWLF permit applications and corrective action remedy selection are considered. The procedures require the Michigan Department of Natural Resources (MDNR) to notify a municipality and its residents of the receipt of a permit application for a proposed MSWLF facility or plans to select a corrective action remedy. The public is notified through a local newspaper of the opportunity to request a public hearing on a proposed facility or remedy if there is significant interest. In addition, the MDNR ensures that all permit and license documents are available for public review and comment. Formal notification of a decision is made to a municipality with an explanation of the reasons for the decision within 10 days after the final decision is made.

Along with the tentative determination, the USEPA announced the availability of the application for public comment and a public hearing on the application. A 45-day public comment period was held until February 4, 1994. In this notice of tentative determination, the USEPA announced that a public hearing would be held if a sufficient number of people requested a hearing. The Agency received several public comment letters in response to the tentative determination. No requests for a public hearing were received, therefore, a hearing was not held.

C. Public Comment

The USEPA received several public comments concerning the tentative determination of partial program adequacy for Michigan's MSWLF permit program.

Four commenters requested that USEPA consider and include several recommendations in the determination of adequacy for Michigan's MSWLF permit program. These recommendations included the following operating criteria, design standards, and location restrictions:

1. Mandatory weight scales at all MSWLFs.

2. Mandatory primary and secondary liners (double composite) and leachate collection systems for all MSWLFs.

3. Mandatory set-back distances of 1–2 miles from a residential drinking water well or inland lake or stream, and

5 miles from a Great Lake, including Lake St. Clair, for all new MSWLFs.

4. Mandatory 50-foot isolation distance from the uppermost aquifer for all new MSWLFs.

The revised Federal Criteria contain minimum requirements for municipal solid waste landfills. The USEPA encourages States to consider local conditions and circumstances in adopting requirements that are equal to or more stringent than the revised Federal Criteria. As a result, certain portions of the Michigan MSWLF program are already more stringent than the Federal Criteria. However, the USEPA does not have the authority to require States to adopt additional requirements well beyond the minimum standards set forth in 40 CFR part 258. During the MSWLF permitting process in Michigan, opportunities are provided for public input into the siting and development of permit conditions for all MSWLF sites. The USEPA encourages concerned citizens to actively participate in the planning and development of solid waste management facilities early in the permitting process. As discussed in the previous section, the State's permitting process is designed to facilitate the consideration of site-specific comments and suggestions (1–4 above) during the early planning stages of MSWLF facilities.

One commenter suggested that the USEPA should grant full approval to the groundwater sampling and analysis portion of Michigan's application, because the State allows filtered groundwater samples for metals analyses. The revised Federal Criteria require unfiltered groundwater samples to be used in laboratory analysis. Currently, Michigan requires field-filtering for groundwater samples that are to be analyzed for metals unless the Director of MDNR determines field-filtering is not appropriate. The USEPA intends to revisit this issue during a proposed rulemaking. If the USEPA determines the ban should be upheld, Michigan will be required to come into compliance with the provisions of 40 CFR 258.53(b). In the meantime, the State will not be given approval of this requirement.

One commenter requested that the provisions for the emergency disposal of materials posing a threat or nuisance to the public or the environment be removed from the Michigan MSWLF permit program. Discussions with the State indicated that this provision has not been used to date and is intended only for extremely limited situations in which the Director of the MDNR is petitioned and must specifically grant approval for the activity. The USEPA is satisfied that the existence or use of this provision does not undermine the effectiveness of Michigan's program.

One commenter suggested that the reintroduction of leachate back into any MSWLF unit, as currently allowable under Michigan rules, be prohibited. The USEPA notes that the revised Federal Criteria allow for the reintroduction of leachate or gas condensate derived from a MSWLF unit in 40 CFR 258.28. The revised Federal Criteria require that MSWLF units in which leachate or gas condensate is recirculated must be designed with a composite liner and leachate collection system. In addition, Michigan rules require that the Director of the MDNR must specifically approve a plan for the recirculation of any liquids derived from the MSWLF unit in an operating license for the facility.

Several commenters requested that owners and operators of MSWLFs should be required to maintain a perpetual care fund for post-closure care and corrective action for as long as the waste poses a risk to the environment. Michigan did not apply for approval of financial assurance requirements in its application for partial program approval. This matter will be addressed when Michigan applies for full program approval. Interested parties concerned with financial assurance requirements for MSWLFs are encouraged to participate in the upcoming legislative or regulatory action currently under consideration by the MDNR on this issue.

As a State/Tribe's regulations and statutes are amended to comply with the Federal MSWLF Criteria, unapproved portions of a partially approved MSWLF permit program may be approved by the USEPA. The State/Tribe may submit an amended application for review and an adequacy determination will be made using the same criteria as for the initial application. This adequacy determination will be published in the **Federal Register** summarizing the Agency's decision and the portion(s) of the State/Tribal MSWLF permit program affected and providing an opportunity to comment for a period of 30 days. This adequacy determination will become effective sixty (60) days following publication if no adverse comments are received. If USEPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to public comments.

To ensure compliance with all of the revised Federal Criteria, Michigan needs to adopt the financial assurance requirements of 40 CFR 258.70. If the Agency upholds the ban on field-filtering, the State will be required to come into compliance with the provisions of 40 CFR 258.53(b).

Michigan plans to complete any revisions and amendments to its MSWLF permit program by October 1995. Michigan began the process of revising financial assurance requirements by issuing draft revisions for comment on August 11, 1993. Comments on the initial draft have been received and a second draft is currently being compiled. To allow the State to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, the USEPA is approving those portions of Michigan's program that are ready for action today.

The USEPA cautions Michigan that it currently plans to propose in the STIR that all partial approvals will expire in October 1995 for States/Tribes that have not received final approval for all provisions of 40 CFR part 258 unless the State/Tribe can demonstrate to the Regional Administrator that it has sufficient cause for not meeting the deadline. If the Regional Administrator believes sufficient cause exists, the expiration date may be extended. The extension and new expiration date would be published in the **Federal Register**. Expiration of a partial approval would mean that the Federal Criteria would apply, and the flexibility provided for approved States/Tribes by the Federal Criteria would no longer be available in the State/Tribe. The USEPA urges Michigan to work diligently to make the necessary revisions to those portions of its permit program that are not being proposed for approval today.

D. Decision

After reviewing the public comments, I conclude that Michigan's application for partial program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Michigan is granted a partial program determination of adequacy for the following areas of its municipal solid waste permit program:

1. General requirements, definitions, and consideration of other Federal laws (40 CFR 258.1, 258.2, and 258.3);

2. Location restrictions for airport safety, floodplains, wetlands, fault areas, seismic impact zones, unstable areas, and closure of existing units (40 CFR 258.10, 258.11, 258.12, 258.13, 258.14, 258.15, and 258.16);

3. Operating criteria for excluding hazardous waste, daily cover material, disease vector control, explosive gases control, air criteria, access restrictions, run-on/run-off control systems, surface

water requirements, liquids restrictions, and recordkeeping requirements (40 CFR 258.20, 258.21, 258.22, 258.23, 258.24, 258.25, 258.26, 258.27, 258.28, and 258.29);

4. Design criteria (40 CFR 258.40);

5. Groundwater monitoring applicability, systems, detection monitoring, assessment monitoring program, assessment of corrective measures, selection of remedy, and implementation requirements (40 CFR 258.50, 258.51, 258.54, 258.55, 258.56, 258.57, and 258.58); and

6. Closure and post-closure care requirements (40 CFR 258.60 and 258.61).

Section 4005(a) of RCRA provides that citizens may use the citizen suit provision of section 7002 of RCRA to enforce the revised Federal Criteria independent of any State/Tribal enforcement program. As the USEPA explained in the preamble to the revised Federal Criteria, the USEPA expects that any owner or operator complying with provisions in an approved State/Tribe program should be considered to be in compliance with the revised Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. The USEPA believes it has good cause under section 553(d) of the Administrative Procedures Act, 5 U.S.C. 553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the approved portions of the State's program are already in effect as a matter of State law. The USEPA's action today does not impose any new requirements with which the regulated community must begin to comply. Nor do these requirements become enforceable by the USEPA as Federal law. Consequently, the USEPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This action, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: March 3, 1994.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 94–5612 Filed 3–9–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4847–2]

Massachusetts Marine Sanitation Device Standard; Receipt of Petition

Notice is hereby given that a petition has been received from the State of Massachusetts requesting a determination by the Regional Administrator, Environmental Protection Agency, pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for Waquoit Bay and its tributaries and salt ponds that border the Towns of Falmouth and Mashpee, within the State of Massachusetts to qualify as a "No Discharge Area".

The State of Massachusetts has certified that there are two pump-out facilities available to service vessels in Waquoit Bay.

One pump-out facility is located at the Edward's Boat Yard on the Childs River in Falmouth. The Edward's Boat Yard has 48 slips, 11 used for service and 37 for seasonal rental. In addition, there are 8 moorings. All mooring and slip users sign an anti-pollution contract with the Edward's Boat Yard. Public washrooms are available and the pump-out unit can also service porta-potties. The hours of operation are seven days a week from 8 a.m. to 4:30 p.m. during the summer season from Memorial Day through Columbus Day. The rest of the year the pump-out facility is operated Monday through Friday from 8 a.m. until 4:30 p.m. with Saturday service provided from mid April to Memorial Day and from Columbus Day to mid November between 8 a.m. until noon. A $5.00 fee is charged for use. Depth limits access at the Edward's Boat Yard to vessels which draw 3 feet or less at low tide.

A second pump-out facility will be established at the Little River Boat Yard on Seconsett Island in Mashpee. The Little River Boat Yard has approximately 25 slips, 64 racks for boats and no moorings. The Little River Boat Yard is expecting to provide "floating pump-out service" during the summer months to all boats in Waquoit Bay by mounting the equipment on a boat. The pump-out facility will be operated upon request during the regular business hours of the Little River which is seven days a week from 7 a.m. to 7 p.m. in the Summer Season (Memorial Day through Columbus Day). Business hours for the rest of the year are Monday through Friday from 8 a.m. until 4:30 p.m. A $5.00 fee per pump-out is expected to be charged for use. During the summer season, the floating pump-out system will make a scheduled round of Waquoit Bay to provide "floating pump-out service" to moored boats throughout the bay including transient boats located along the shores of Washburn Island. It is estimated that this floating pump-out run will take between 1 and 2 hours depending on the number of boats requiring the service. Mariners will be able to contact the operator by marine radio or visible signal to request a pump-out. The remainder of the time, the facility will be docked at the Little River Boat Yard where pump-out service will be provided for any boats wishing to use it. The floating pump-out facility will be able to service all areas of the bay.

All pump-out waste will be stored in a 2000 gallon licensed tight tank at the Edward's Boat Yard. A licensed hauler will remove the waste and dispose of it in the Falmouth Sewage Treatment Plant which is approved by the Massachusetts Department of Environmental Protection to receive boat waste.

Recreational boating is a predominant use during the summer months with mooring areas covering substantial portions of the bay and its tributaries and ponds. Marinas are found along the Childs and Little River and docks line the bay's tributaries and salt ponds. Currently, there are an estimated 2610 boats in Waquoit Bay and its tributaries and salt ponds with approximately 570 boats having some type of Marine Sanitation Device (MSD) based on their size classification. Waquoit Bay is 931 acres in size with a watershed of approximately 20 square miles.

Comments and views regarding this request for action may be filed on or before April 4, 1994. Such communications, or requests for information or a copy of the applicant's petition, should be addressed to Janet C. Labonte, U.S. Environmental Protection Agency—Region I, Marine and Estuarine Protection section (WQE), JFK Federal

Building, Boston, MA, 02203.
Telephone: 617/565–3550.

Dated: March 1, 1994.

Harley Laing,

Acing Regional Administrator.

A.—PUMP-OUT FACILITY TABLE

Marina/locations	Number pump-out units	Hours	Draft limitations	Fee
Edwards Boatyard, Inc., 1209 E. Falmouth Hwy. (Rt. 28), E. Falmouth, MA 02536, (508) 548–2216, Channel 09 VHF–FM.	1 Stationary	8 am–4:30 pm Daily	3' or less at low tide	$5.
Little River Boat Yard, Inc., Seconsett Island, Mashpee, MA 02649, (508) 548–3511, Channel 09 VHF–FM.	1 Mobile	7 am–7 pm Daily		5.

[FR Doc. 94–5424 Filed 3–9–94; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

Background

Notice is hereby given of the final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT: Mary M. McLaughlin, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Gary Waxman, OMB Desk Officer (202-395-7340), Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

Final approval under OMB delegated authority the extension, without revision, of the following report(s):

1. *Report title:* HMDA/Loan Application Register
Agency form number: HMDA/LAR
OMB Docket number: 7100-0247
Frequency: Annual
Reporters: Depository institutions and other lenders covered by the Federal Reserve Board's Regulation C
Annual reporting hours: 114,840
Estimated average hours per response: 200 for state member banks; 160 for mortgage banking subsidiaries
Number of respondents: 507 state member banks; 84 mortgage banking subsidiaries
Small businesses are not affected.
General description of report: This information collection is mandatory (12 U.S.C. 280-2810; 12 CFR part 203) and is not given confidential treatment.

The Federal Reserve Board's Regulation C implements HMDA; it requires depository institutions and other covered lenders to report information each year that shows a geographic breakdown of their residential mortgage applications, and loans made and purchased.

2. *Report title:* The Quarterly Gasoline Company Report
Agency form number: FR 2580
OMB Docket number: 7100-0009
Frequency: Quarterly
Reporters: Gasoline Companies
Annual reporting hours: 6
Estimated average hours per response: 0.15
Number of respondents: 10
Small businesses are not affected.
General description of report: This information collection is voluntary (12 U.S.C. 263, 461, and 353 et seq.) and is given confidential treatment under the Freedom of Information Act (5 U.S.C. 552 (b)(4)).

This report is used to collect information on outstanding balances on retail credit card accounts at gasoline companies.

Final approval under OMB delegated authority the extension, with revision, of the following report(s):

1. *Report title:* The Monthly Commercial Bank Report on Consumer Credit
Agency form number: FR 2571
OMB Docket number: 7100-0080
Frequency: Monthly
Reporters: Commercial banks
Annual reporting hours: 2,880
Estimated average hours per response: 0.6
Number of respondents: 400
Small businesses are not affected.
General description of report: This information collection is voluntary (12 U.S.C. 255(a) and 248(a)(2)) and is given confidential treatment under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

This report is used to collect information on consumer loans outstanding at the domestic offices of a sample of 400 commercial banks.

2. *Report title:* The Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans
Agency form number: FR 2835
OMB Docket number: 7100-0085
Frequency: Quarterly
Reporters: Commercial Banks
Annual reporting hours: 105
Estimated average hours per response: 0.15
Number of respondents: 175
Small businesses are not affected.
General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2)) and is not given confidential treatment.

This report collects the "most common" rate charged at a sample of 175 commercial banks on two types of consumer loans: auto loans and closed-end personal loans.

Final approval under OMB delegated authority the implementation of the following report:

1. *Report title:* The Quarterly Report of Credit Card Interest Rates
Agency form number: FR 2835a
OMB Docket number: 7100-0085
Frequency: Quarterly
Reporters: Commercial banks
Annual reporting hours: 300
Estimated average hours per response: .50
Number of respondents: 150
Small businesses are not affected.
General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2)) and is given confidential treatment under the Freedom of Information Act (5 U.S.C. 552(b)(4)).

This new report would collect information on two measures of credit card interest rates from a sample of 150 depository institutions. The data would be viewed as representative of interest

rates at all banks by including all large issuers and an appropriate sampling of other issuers.

Board of Governors of the Federal Reserve System, March 4, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-5464 Filed 3-9-94; 8:45 am]

BILLING CODE 6210-01-F

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FTR 11]

Federal Travel Regulation; Subsistence Expense Payment Options for Attendance at a Conference

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of bulletin.

SUMMARY: The attached bulletin clarifies subsistence expense payment options available under the Federal Travel Regulation (FTR) (41 CFR chapters 301–304) to agencies planning, or authorizing attendance at, a conference. This information will assist agencies in minimizing overall conference costs in the prevailing seasonal per diem rate environment.

EFFECTIVE DATE: This bulletin is effective January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Larry A. Tucker, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

SUPPLEMENTARY INFORMATION: Areas with seasonal variations in lodging rates may offer cost effective choices for conferences, especially during the off-season. Avoiding them because of their resort connotations without consideration of overall conference costs is not prudent policy. Moreover, contracts negotiated by Federal agencies before implementation of new off-season per diem rates on January 1, 1994 (FTR Amendment 34 (58 FR 67950, Dec. 22, 1993)), should not automatically be terminated. If the total conference cost still is less than the alternatives, payment of actual subsistence expenses at a rate up to 150 percent of the applicable maximum per diem rate for the area may be authorized for attendees. The attached GSA Bulletin FTR 11 clarifies fiscally responsible methods of planning conferences and handling subsistence expense payments.

Dated: March 3, 1994.

Allan W. Beres,

Assistant Commissioner, Transportation and Property Management.

Attachment

ATTACHMENT

[GSA Bulletin FTR 11]

March 3, 1994

To: Heads of Federal agencies

Subject: Subsistence expense payment options for attendance at a conference.

1. *Purpose.* This bulletin informs agencies of subsistence expense payment options available under the Federal Travel Regulation (FTR) (41 CFR chapters 301–304) to agencies planning, or authorizing attendance at, a conference. This information will assist agencies in minimizing overall conference costs in the prevailing seasonal per diem rate environment.

2. *Background.* The General Services Administration (GSA) recognizes that resort areas may offer attractive options for conference business when overall conference costs are considered, especially during the off-season. The FTR in Amendment 32 (58 FR 58234, Oct. 29, 1993) instructs agencies in § 301–16.4(a) to avail themselves of such cost savings opportunities. GSA issued FTR Amendment 32 to implement that portion of President Clinton's February 10, 1993, memorandum requiring Heads of agencies to exercise strict fiscal responsibility when selecting a conference site. The Office of Management and Budget (OMB) amplified the President's direction in OMB Bulletin No. 93–11, issued April 19, 1993, requiring agencies to select conference sites that minimize conference costs. Additionally, GSA issued FTR Amendment 34 (58 FR 67950, Dec. 22, 1993) implementing seasonal locality per diem rates effective January 1, 1994. Agencies are responsible for diligently planning and managing conferences to effectively control associated subsistence costs.

3. *Reimbursement of subsistence expenses for conference attendance.*

a. GSA's implementation of seasonal locality per diem rates in FTR Amendment 34 may have significantly affected conference commitments agencies entered into prior to the January 1, 1994, effective date of the new amendment. For conferences scheduled in an area where the per diem rate was lowered, it appears some agencies assume their only recourse is to cancel their plans and move the conference to a new site. While in some cases this may be the prudent choice, the same careful analysis of overall conference costs required by the FTR in the initial planning phase should be undertaken before any final decision is made about changing the conference site.

b. If a formal contract has been signed, its terms should dictate what happens in the event of a per diem rate change. In those cases where a fixed rate has been established, the costs of termination (if any) and the overall cost of shifting the conference to a new site should be considered before any final decision is made.

c. It may be that payment of an employee's actual subsistence expenses for conference attendance in a particular locality, in an amount up to 150 percent of the appropriate maximum per diem rate for the area, would result in lower overall costs to the Government than payment of per diem expenses for the employee to attend a conference scheduled in a locality with a higher per diem rate. If no other practical alternative is available, it would be prudent management for the agency to negotiate the best possible deal and, where appropriate, to authorize or approve payment of actual subsistence expenses in accordance with FTR §§ 301–8.3 and 301–16.4.

4. *Expiration date.* This bulletin expires on March 3, 1995.

5. *For further information contact.* Larry A. Tucker, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Allan W. Beres,

Assistant Commissioner, Transportation and Property Management.

[FR Doc. 94–5456 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–24F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Strengthening Community Supports for Youth Development

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Request for applications to implement a strategy for strengthening community supports for youth development.

SUMMARY: The Department wishes to participate in a demonstration and evaluation of a long-term community

development process in behalf of at-risk youth in 3–5 communities with the majority of funding being provided by charitable foundations. We estimate that the scope and level of effort will require up to five years to accomplish and will cost approximately $3–5 million for the first 24–30 months of work. Only one grant of $100,000 per year for five years will be awarded.

CLOSING DATES: The closing date for submitting an application is May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., room 405F, Hubert H. Humphrey Building, Washington, DC 20201, Phone (202) 690–8794.

Part I. Background

The Department has been participating in a broadly-based interdepartmental working group and internally reviewing its program and policy options to find ways of addressing the problems of teen crime and violence, teen parenthood, and other barriers to a successful transition to adulthood. These discussions have been conducted in multidimensional context. Teen violence has been described a top public health problem. The number of homicides and serious injuries because of violence among teenager has reached pandemic levels in some communities. For example, adolescents are 2½ times more likely to be victims of violent crimes than those over age 20. Homicide is the second leading cause of death for all youth ages 15–24 and is the leading cause of death for African-American youth in this age group. Welfare reform discussions have also highlighted the importance of preventing teen pregnancies. Finally the need to ensure that young people enter adulthood with competitive and marketable job skills in an era of global economic competition has never been greater.

At the same time that these problems of youth are engaging the urgent attention of this Department, we are also concerned about avoiding the mistakes of past programs and initiatives. The lessons of the past point to the need to seek comprehensive, community-based family-centered solutions for today's problems. Many of the problems of poor children and poor families are inseparable from the conditions of their communities. Individual issues of drug abuse, delinquency, school failure, teen pregnancy, and so on, cannot be addressed unless the community poverty, violence, deterioration, and hopelessness that breeds these problems are also addressed. Any attempt to address these problems by working with youth in isolation from their families and communities will fail in the long term. While short term gains can be achieved and a few individuals can be "rescued" through high quality youth-focused intensive services, the core problems will not be addressed. These programs will never have enough resources to reach all the youth or even a majority of the youth who need help. We must begin devising policies and programs that respond not just to problems, not just individuals, not just families, but to whole communities as the client and subject of our concern. Large numbers of youth will not succeed until the environment within a local community supports positive youth development and a sufficiently strong social infrastructure exists to provide special help to those youth who need it.

The empowerment-zone and enterprise-community legislation enacted by Congress in August, 1993 encourages the development of more comprehensive, coordinated, and integrated approaches to serving low-income communities. While it is an opportunity to develop new and more local systems of human services—ones that are flexible, family focused, and community based, it is also an opportunity to realign the allocation of resources and accountability and develop new decision-making institutions which are in and of the communities they serve. Ideally, these broad-based community-level governing bodies would assume control and responsibility for dozens of separate special-purpose programs designed to address problems as if they were not interconnected. Accomplishing such fundamental structural changes will take years of effort and require repeated attempts. The scope of the task includes redefining the roles of the existing bureaucracies, renewal of the competencies of the helping professions, and the development of new measures and new tools for assuring accountability for positive outcomes.

The Department wishes to contribute to the process of building the capacities and infrastructure necessary for development of such community based programs, especially in the area of youth services. However it does not have funding for an independent effort at this time. Therefore it wishes to participate in an existing project as a first step in developing its own agenda for positive youth development.

Part II. Required Characteristics of a Qualifying Demonstration Project

A. Demonstrations in Multiple Sites

The applicant should be prepared to conduct a minimum of five demonstration projects in geographically separate communities. The process of collaboration with each local community will respect the flexibility and uniqueness that each community requires, while ensuring that the results of local development decisions reflect a coherent theory built on the best knowledge and evidence available. This approach consciously avoids assigning specific responsibilities to specific institutions. These would vary according to the capacities and strengths of each community. But the need for all key youth-serving institutions—the schools, voluntary organizations, community-based agencies, employers—to be actively involved and supportive of changes in current practices if necessary, is critical.

B. Foundation Support for Demonstrations

The applicant must demonstrate sufficient financial support from private philanthropic foundations to carry out at least the first two years of the project. Written evidence of the commitment of financial resources from the major participants must be included with the application.

C. Focus on "Core Concepts"

The design and implementation of a long-term youth development initiative should be focused around a small number of substantive core concepts. These "core concepts" are to be derived from theory and research on how adolescents learn, on what motivates them, and on what socialization practices most effectively promote their healthy development.

These core concepts should not attempt to meet all of a youth's needs, but rather represent hard choices about what supports and opportunities are critical to successful adolescence and transition to economic self-sufficiency, are likely to be absent in most resource poor neighborhoods, and are within the influence of social policy. They should represent a hypothesis about the threshold content of social infrastructure necessary to secure positive teenage development and a successful transition to adulthood, for a substantial number of youth who would otherwise not succeed.

D. Continuity From Early Adolescence Through Early Adulthood

Most of the current programs provide for only time-limited interventions, e.g., special classes, summer camps or specific problem-solving activities, e.g., homelessness, pregnancy counseling. To borrow an analogy from the field of medical practice, most programs are akin to attempts at inoculations for communicable disease or emergency room treatment. There have been very few programs that attempt to provide continuity of support and opportunity through the whole period of transition from early adolescence to early adulthood. Few yet have attempted to make support and mentoring of youth a conscious part of community social infrastructure. Applicants should discuss whether continuous youth supports are necessary for positive adult outcomes and whether these supports can be organized on a community level.

E. Support for Local Projects

Previous experience in multisitie demonstrations and replications also indicates the importance of providing to local initiatives certain kinds of support and assistance that local resources can rarely afford. Thus an applicant must demonstrate the ability to carry out or manage the following activities and roles to support local operations:

* The identification of and training in the use of "best practice" materials, curricula and training packages to provide content and boost local staff capacity in carrying out the five core concepts;
* The development and installation of an information system to assist in local decision-making, and provision of training in its installation and operation;
* Financial support for sites to implement core concept innovations that current public funding streams do not support;
* Support in securing local private resources necessary for staffing the local governance mechanism; and
* Assignment to each site of a staff member or consultant with substantial experience in multi-institution youth initiatives, to act as a sounding-board and broker on local issues, and provide a perspective independent of any specific local interest.

These functions are, in our experience, important to building local capacity for effective and institutionalized changes in practice.

F. Community Empowerment

In each community an organization which is representative of both public and private sectors and a variety of interests will be needed to direct the planning and implementation of the youth services project. The applicant should describe how it envisions the size and different levels within these organizations, the kinds of representation that will be needed, the level at which local community leaders will be involved in the project and the efforts that will be made to involve the youth themselves in meaningful roles.

G. Evaluation

Each applicant must provide for an independent evaluation of the process of implementation itself. It is this process evaluation which will provide lessons for other communities.

The implementation evaluation should be conducted by an independent evaluation team of researchers experienced in process evaluations, implementation studies, case studies, and other field approaches. The evaluation should focus on describing both the anticipated and the unanticipated processes of the implementation of the core concept strategy. The purpose of the documentation and analysis of unanticipated implementation issues is not to derive a judgment about the original plans, but rather to develop a better understanding of the factors affecting implementation and to derive lessons for wider-scale application.

Some questions to consider include:

What factors influence the success or failure of collaborative attempts to develop community based service delivery mechanisms?

These factors should include environmental conditions of historical experience and political climate, membership characteristics including the degree to which members represent their community and the influence of shared or different cultural norms and values, factors related to decision making process and structure, factors related to communication, factors related to goals and purpose, and factors related to available resources such as skilled leadership, funding, and skilled staff.

What are the appropriate intermediate measures of progress toward becoming a positive environment for youth development? How will we know that conditions are improving?

Does collaboration on the community level reduce or eliminate the barriers to service commonly found in categorical funding? Do more youth and a greater diversity of youth receive services? What opportunities are presented by coordination of funding streams at the community level? What problems encountered? Does this result in increased funding or volume of services for youth?

What are the core or essential services that must be in place in a comprehensive program? Do programs have to offer health, education, recreation, employment services? Should comprehensive programs attempt to address problems directly, e.g., pregnancy prevention and options counseling, substance abuse prevention and referrals.

Part III. Organization of Applications—Outline of Narrative Description

An application must contain the required Federal forms and a narrative description of proposed project. All pages of the narrative should be numbered consecutively. Each applicant must present their responses to the "Required Characteristics of a Qualifying Demonstration Project" delineated in part II within the structure presented below.

A. Abstract

Provide a one-page summary of the proposed project.

B. Goals, Objectives and Need for the Project

Include a brief overview which describes the need for the proposed project, justifies the approach to be taken, and identifies any theoretical or empirical basis for the approach proposed along with appropriate supporting citations of the pertinent professional literature. Present the goals of the implementation effort and related objectives in observable terms. These goals and objectives should be used in the development of the evaluation section.

C. Strategic Plan

Provide a description of how the proposed demonstration project will be implemented. It will be helpful if specific steps and milestones can be presented in the form of a series of Gantt or PERT charts.

D. Evaluation

Describe the level of effort and the resources that will be devoted to an independent evaluation of the project.

E. Organizational Capacity

Briefly describe the applicant's organizational capabilities and experience in conducting demonstration projects or programs involving local government, education, health, or human service agencies. Identify the key staff who are expected to carry out the demonstration project and provide a curriculum vitae for each person.

F. Budget

Submit a request for federal funds using Standard Form 424A and provide a proposed budget using the categories

listed on this form. Documentation must be included which substantiates the existence of a commitment by one or more private philanthropic foundations to provide at least $3 million for implementation of the demonstration project.

Part IV. Receipt and Processing of Applications

A. Deadline for Submitting of Applications

The closing date for submittal of applications under this announcement is May 9, 1994. Applications must be postmarked or hand delivered to the application receipt point no later than 5 p.m. on the closing date. Applications which do not meet the deadline are disqualified and will not be considered further. DHHS will send a letter to this effect to each late applicant.

An application will be considered as meeting the deadline if it is either: (1) Received at, or hand-delivered to, the mailing address on or before the due date, or (2) postmarked before midnight of the deadline date and received in time to be considered during the competitive review process.

Hand-delivered applications will be accepted Monday through Friday, excluding federal holidays during the working hours of 9 a.m. to 5 p.m. in the lobby of the Hubert H. Humphrey building located at 200 Independence Avenue, SW. in Washington, DC. When hand-delivering an application, call 690–8794 from the lobby for pick up. A staff person will be available to receive applications.

When mailing applications, applicants are strongly advised to obtain a legibly dated receipt from a commercial carrier (such as UPS, Federal Express, etc.) or from the U.S. Postal Service as proof of mailing by the deadline date. If there is a question as to when an application was mailed, applicants will be asked to provide proof of mailing by the deadline date. When proof is not provided, an application will not be considered for funding. Private metered postmarks are not acceptable as proof of timely mailing.

DHHS reserves the right to extend the deadline for all proposals due to acts of God, such as floods, hurricanes, or earthquakes; or if there is a widespread disruption of the mail; or if DHHS determines a deadline extension to be in the best interest of the government. However, DHHS will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

B. Initial Screening

Applications will be initially screened for compliance with the timeliness, completeness, and cost-sharing requirements. If judged in compliance, the application then will be reviewed by government personnel, augmented by outside experts where appropriate. Three (3) copies of each application are required. Applicants are encouraged to send an additional three (3) copies of their application to ease processing, but applicants will not be penalized if these extra copies are not included. There is no limitation on the length of the narrative; however extraneous materials such as videotapes and brochures should not be included and will not be reviewed.

C. Review Process and Evaluation Criteria

Applications will be evaluated by a panel of reviewers according to the criteria set forth below. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application. The relative weights are shown in parentheses.

1. Goals, Objectives, and Need for Assistance (10 points)

Are the goals and objectives presented in observable, measurable terms, and how well do they reflect the specific program requirements delineated in the grant announcement?

2. Project Design and Approach (30 points)

Is the plan reasonable? Are the activities listed for each objective sufficiently detailed to ensure successful, timely implementation? Do they demonstrate an adequate level of understanding by the applicant of the practical problems involved in executing such a complex project? Is there substantive evidence that the advisory board and local community will be substantively involved in the project?

3. Evaluation (10 points)

Does the applicant propose an independent evaluation of the implementation process? Does the applicant demonstrate an understanding of the practical difficulties of working with an independent evaluator and a resolve to successfully conduct the evaluation?

4. Organizational Capacity (20 points)

Does the organization(s) have sufficient experience to ensure success? Is the collaborative decision making process described in terms that assure accountability to the communities and families to be served? Are the number and type of staff positions sufficient to achieve project objectives?

5. Budget (30 points)

Is the proposed budget reasonable and sufficient to ensure implementation? Are the required local matching funds being provided and in this commitment reliable? Are funds allocated to carry out the evaluation?

Part V. Other Notices and Requirements

A. Legislative Authority

The authority for this grant is contained in section 1110 of the Social Security Act (42 U.S.C. 1310).

B. Applicable Regulations

1. "Grants Programs Administered by the Office of this Assistant Secretary for Planning and Evaluation" (45 CFR part 63).

2. "Administration of Grants" (45 CFR part 74).

C. Eligible Applicants

Any agency of state or local government, university or other agency whether organized as a for-profit or as a not-for-profit corporation. However for-profit organizations are advised that no grant funds may be paid as profit to any recipient of a grant or subgrant. Profit is any amount in excess of allowable direct and indirect costs of the grantee.

D. Effective Date and Duration

1. The grants awarded pursuant to this announcement are expected to be made on or about June 1, 1994.

2. Projects will be twelve months in duration with funding for the second through the fifth year subject to a determination that continued support is in the interest of the government. The grantee may be required to provide an updated workplan toward the end of each budget period prior to receiving funding for the next year.

E. Statement of Funds Availability

1. Up to $100,000 is available for one grant to be awarded in Fiscal Year 1994.

2. Nothing in this application should be construed as committing the Assistant Secretary to make any award.

F. Reports

The grantee must submit annual progress reports and a final report. The specific format and content for these reports will be provided by the project officer.

G. Application Instructions and Forms

Copies of applications should be requested from and submitted to: Grants

Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., room 405F, Hubert H. Humphrey Building, Washington, DC 20201, Phone (202) 690–8794. Questions concerning the preceding information should be submitted to the Grants Officer at the same address.

H. Federal Domestic Assistance Catalog

This program is not listed in the Catalog of Federal Domestic Assistance.

I. State Single Point of Contact (E.O. 12372)

DHHS has determined that this program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." because it is a program that is national in scope and does not directly affect State and local governments. Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. 12372.

Dated: March 1, 1994.

David T. Ellwood,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 94–5549 Filed 3–9–94; 8:45 am]

BILLING CODE 4110–60–M

Administration for Children and Families

Agency Information for Children and Families

Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for the continued use of an information collection titled: "Monthly Flash Report of Selected AFDC Program Data". This information collection was approved under OMB Number 0970–0071 for use through March 31, 1994.

ADDRESSES: Copies of this information collection request may be obtained from Edward E. Saunders, Office of Information Systems Management, ACF, by calling (202) 205–7921.

Written comments and questions regarding this request for approval for information collection should be sent directly to:

Laura Oliven, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Monthly "Flash" Report of Selected AFDC Program Data.

OMB Number: 0970–0071.

Description: The authority for this information collection may be found at section 402(a)(6), Aid to Families with Dependent Children (AFDC) and section 1602 under Title XVI, Aged, Blind and Disabled (AABD) of the Social Security Act. Aid to Families with Dependent Children (AFDC) is the nation's largest financial assistance program serving needy families with dependent children. AFDC's mission is two-fold: first, to assist families with dependent children to meet an immediate financial need and second, to help parents in these families become economically self-sufficient.

Recent caseload and expenditures statistics for Fiscal Year 1992 show:

AFDC Caseload

Average No. of Monthly Families, 4,768,495.

Average No. of Monthly Recipients, 13,625,342.

Benefit Expenditures

Total, $21.9 billion.

Average Monthly Benefits (per Family), $383.45.

Average Monthly Benefits (per Recipient), $134.20.

Form ACF–3645 will be used by the States to provide preliminary monthly information on services provided to AFDC recipients including: numbers of AFDC families, adults, and children receiving cash assistance, the number of eligible families receiving emergency assistance payments, temporary housing, statistics on unemployment among AFDC parents, and caseload statistics, including the AFDC-Unemployed Parents and Basic segments under Title IV–A of the Social Security Act.

This information is electronically forwarded to the Office of Family Assistance where it is analyzed and circulated to key ACF headquarters and regional offices staff, DHHS administrative and budget offices, State welfare departments, OMB and Congressional committee staffs. This information is widely used for monitoring AFDC program trends and is an advance indicator of program activity and costs.

Annual Number of Respondents: 54.

Annual Frequency: 12.

Average Burden Per Response: 2.

Total Burden Hours: 1,296.

Dated: February 25, 1994.

Larry Guerrero,

Deputy Director, Office of Information System Management.

[FR Doc. 94–5590 Filed 3–9–94; 8:45 am]

BILLING CODE 4184–01–M

Agency Information Collection Under OMB Review

Under the provision of the Federal Paperwork Reduction Act (44 U.S.C. Chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval for the continued use of an information collection for the Office of Family Assistance. This information collection titled: "Statistical Report of Recipients Under Public Assistance Program" (Form ACF–3637) was approved under OMB control number 0970–0008.

ADDRESSES: Copies of the information collection request may be obtained from Edward E. Saunders, Office of Information Systems Management, Administration for Children and Families, by calling (202) 205–7921.

Written comments and questions regarding this information collection should be sent directly to:

Laura Oliven, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395–7316.

Information on Document

Title: Statistical Report on Recipients Under Public Assistance Programs (Form ACF–3637).

OMB No.: 0970–0008.

Description: This collection of information is authorized by section 402(a)(6) of the Social Security Act which requires that all State agencies administering or supervising the administration of Federally-aided public assistance programs under Title IV–A (AFDC) of the Social Security Act provides for a system of reporting on the administration of this program. Furthermore, the Code of Federal Regulations 45 Public Welfare, section 205.60 requires that "The State agencies administering or supervising the administration of the Aid to Families with Dependent Children (AFDC) and Job Opportunities and Basic Skills (JOBS) programs in the States, and the Adult Assistance programs in Guam, Puerto Rico and Virgin Islands will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the programs including records regarding applications, determination of eligibility, * * * individual records are

kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; and basis for discontinuing assistance."

Form ACF–3637 is designed to compile basic monthly information and reports the information on a quarterly basis on the number of cases, recipients, children and adults for both the AFDC Basic (non-UP) program and the unemployed parent program. The ACF–3637 is also used to compile information on Emergency Assistance cases, General Assistance cases and recipients, the number of cases and individuals required to participate in the JOBS program, the number of children receiving Transitional Child Care, the number of AFDC recipients under JOBS sanctions, and the number of never-married minor families and their total maintenance assistance payments. Guam, Puerto Rico and the Virgin Islands report the number of recipients in each of their adult programs monthly.

Annual Number If Respondents: 54.

Annual Frequency: 4.

Average Burden Hours: 34.

Total Burden Hours: 7,344.

Dated: February 25, 1994.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 94–5591 Filed 3–9–94; 8:45 am]

BILLING CODE 4184–01–M

Administration on Aging

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96–511).

(1) *Title of Information Collection:* Program Performance Report, Title VI of the Older Americans Act (Grants to Native Americans for Supportive and Nutritional Services);

Type of Request: Extension;

Use: To monitor program operations, growth and results of Title VI funded activities, and to provide information for responses to inquiries;

Frequency: Semi-annually;

Respondents: Indian Tribes and Organizations Serving Native Hawaiians;

Estimated Number of Responses: 432;

Total Estimated Burden Hours: 648.

(2) *Title of Information Collection:* Grants for State and Community Programs on Aging;

Type of Request: Extension and Revision;

Use: To implement new provisions of the Older Americans Act which require States to submit their intrastate funding formulas to the Assistant Secretary for Aging for approval, rather than only for review and comment;

Frequency: Annually, or every two, three or four years, depending on duration of State plans;

Respondents: State Agencies on Aging;

Estimated Number of Responses: 11;

Total Estimated Burden Hours: 1618.

(3) *Title of Information Collection:* State Performance Report: Reporting Requirements for Titles III and VII of the Older Americans Act;

Type of Request: Extension and Revision;

Use: To revise an existing information collection form to conform to the newly-developed National Aging Program Information System (NAPIS) resulting from amendments to the Older Americans Act which directed the Administration on Aging to improve State reporting requirements;

Frequency: Annually;

Respondents: State Agencies on Aging;

Estimated Number of Responses: 57;

Total Estimated Burden Hours: 294,861.

(4) *Title of Information Collection:* Certification of Maintenance of Effort;

Type of Request: Extension;

Use: To verify the amount of State expenditures to assure that States are in compliance with maintenance of effort requirements under the Older Americans Act;

Frequency: Annually;

Respondents: State Agencies on Aging;

Estimated Number of Responses: 57;

Total Estimated Burden Hours: 28.5.

Additional Information or Comments: Call the Executive Secretariat of the Administration on Aging on (202) 260–0669 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: March 4, 1994.

William F. Benson,

Deputy Assistant Secretary for Aging.

[FR Doc. 94–5462 Filed 3–9–94; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control and Prevention

Fetal Alcohol Syndrome (FAS) Data Collaboration; Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) will convene the following meeting cosponsored by the Research Society on Alcoholism and the National Institute on Alcohol Abuse and Alcoholism.

Name: Fetal Alcohol Syndrome (FAS) Data Collaboration Meeting.

Times and Dates: 8 a.m.–5:30 p.m., March 17, 1994. 8:30 a.m.–12:30 p.m., March 18, 1994.

Place: Atlanta Marriott Marquis Hotel, 265 Peachtree Center Avenue, Atlanta, Georgia 30303.

Status: Open to the public, limited only by the space available.

Purpose: The primary purpose of this meeting is to promote collaborative discussions about current issues in FAS, share information, and identify future collaborative activities among institutions and agencies currently involved in FAS research and program development.

Matters to be Discussed: Topics to be discussed include the possibilities of data-sharing among researchers, issues in case ascertainment of FAS, FAS case definition and screening, and frameworks for primary prevention of FAS.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Louise Floyd, Ph.D., Chief, FAS Prevention Section, Developmental Disabilities Branch (F–15), NCEH, CDC, 4770 Buford Highway, NE., Chamblee, Georgia, 30341, telephone 404/488–7370.

Dated: March 4, 1994.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–5500 Filed 3–9–94; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 94N–0022]

Exxon Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Exxon Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydrogenated cyclodiene resins as a component of polypropylene homopolymer or a copolymer of propylene and ethylene containing not less than 94 weight percent propylene for use in contact with food.

DATES: Written comments on the petitioner's environmental assessment by April 11, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9500.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 4B4411) has been filed by Exxon Chemical Co., P.O. Box 241, Baton Rouge, LA 70821. The petition proposes that the food additive regulations in § 177.1520 *Olefin polymers* (21 CFR 177.1520) be amended to provide for the safe use of hydrogenated cyclodiene resins as a component of polypropylene homopolymer or a copolymer of propylene and ethylene containing not less than 94 weight percent propylene for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act, (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before April 11, 1994, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 1, 1994.

L. Robert Lake,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–5450 Filed 3–9–94; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Research Priorities Subcommittee of the National Deafness and Other Communication Disorders Advisory Board on March 11, 1994. The meeting will take place from 1 p.m. to 1:45 p.m. in Room 3C05, C–Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of a speaker phone.

The meeting, which will be open to the public from 1 p.m. to 1:20 p.m., is being held to discuss new developments in the field of smell, taste and touch since the National Strategic Research Plan for that area was developed. Attendance by the public will be limited to the space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public from 1:20 p.m. to adjournment for the discussion and recommendation of individuals to serve as consultants to the Research Priorities Subcommittee. This discussion could reveal personal information concerning these individuals, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the Subcommittee's meeting and a roster of members may be obtained from Ms. Monica Davies, Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, Room 3C08, National Institutes of Health, Bethesda, Maryland 20892, (301) 402–1129, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Director in advance of the meeting.

Due to technical difficulties during the February 25, 1994, meeting, an additional meeting had to be scheduled within two weeks of the original meeting to complete Subcommittee business.

(Catalog of Federal Domestic Assistance Program No. 93.173, Biological Research Related to Deafness and Communication Disorders.)

Dated: March 4, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–5751 Filed 3–9–94; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive License: Recombinant Pseudomonas Exotoxin Immunoconjugate Specifically Directed Against the Lewis Y Antigen

AGENCY: National Institutes of Health, Public Health Services, DHHS.

ACTION: Notice.

SUMMARY: This is a notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a limited field of use exclusive license in the United States to practice the invention embodied in U.S. Patent Application Number 07/596,289 entitled "Antibodies Specific for Normal Primate Tissue, Malignant Human Cultured Cell Lines and Human Tumors", to Boehringer Mannheim Pharmaceutical Corporation having a place of business in Rockville, MD. The patent rights in these inventions have been assigned to the United States of America. This notice supersedes and replaces the notice contemplating the grant of a coexclusive license to Boehringer Mannheim Pharmaceutical Corporation and NeoRX which was published at 58 FR 38581 on July 19, 1993.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the licenses would not

be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use would be limited to the use of the monoclonal antibodies of the subject invention with the recombinant Pseudomonas exotoxin for targeting the Lewis Y antigen.

The present invention related to the monoclonal antibodies (MAb) B1, B3, and B5. Of particular importance is the MAb B3 of this invention, which shows strong reactivity with the Lewis Y antigen on many human solid tumors and has limited reactivity with normal human tissues. MAb B3 reacts strongly with all adenocarcinomas of the colon and 75% of them react strongly and homogeneously. MAb B3 has also shown similar strong reactivity with other gastrointestinal malignancies such as esophageal (80%) and gastric carcinomas (75%); MAb B3 reacts strongly with approximately 70% of adenocarcinomas of the lung and also reacts with about 40% of squamous cell carcinomas of the lung and 25% of large cell carcinomas. MAb B3 reacts heterogeneously with 70% of breast carcinomas and homogeneously with about 65% of adenocarcinomas of the prostate and 100% of transitional cell carcinomas of the bladder. Several important characteristics of MAb B3 make it an ideal candidate for further development for use as an immunotoxin for treatment of cancers: (1) Its strong and uniform reactivity with many human solid carcinomas; (2) its limited reactivity with normal tissues; (3) the fact that similar reactivity is found in normal monkey and human tissues (which allow for performance of perclinical toxicology studies with predictive value for a clinical trial; and (4) when coupled to recombinant forms of Pseudomonas exotoxin lacking the cell binding domain, the resulting immunotoxin is capable of killing tumor cells expressing the Lewis Y antigen of their surface, indicating that the antibody/antigen complex is readily internalized.

ADDRESSES: Requests for a copy of this patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Mr. Daniel R. Passeri, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892. Telephone: (301) 496–7735; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent application. Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer within sixty (60) days of this notice will be considered.

Dated: March 2, 1994.

Donald P. Christoferson,

Acting Director, Office of Technology Transfer.

[FR Doc. 94–5495 Filed 3–9–94; 8:45 am]

BILLING CODE 4140–01–M

Prospective Grant of Exclusive and Co-Exclusive Licenses: In-Vivo Imaging and Radiotherapy Targeting Antigens Recognized by the B1, B3 and B5 Antibodies

AGENCY: National Institutes of Health, Public Health Services, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of limited field of use exclusive and co-exclusive licenses in the United States to practice the invention embodied in U.S. Patent Application Number 07/596,289 entitled "Antibodies Specific for Normal Primate Tissue, Malignant Human Cultured Cell Lines and Human Tumors", to NeoRx Corporation, having a place of business in Seattle, WA and ImmunoMedics, Inc., having a place of business in Morris Plains, New Jersey. The patent rights in this invention have been assigned to the United States of America.

The prospective licenses will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

The prospective licenses may be granted unless, within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the licenses would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

(1.) NeoRx Corporation would be granted a co-exclusive license limited to the use of the monoclonal antibodies of the subject invention with Tc-99m for in-vivo imaging of cancer and with Yttrium-90, Rhenium-186, Rhenium-188 and Iodine-125 for cancer radiotherapy. NeoRx would also be granted an exclusive license limited to the use of the monoclonal antibodies of the subject invention with Lutetium-177 and Lead-212 for cancer radiotherapy.

(2.) ImmunoMedics, Inc. would be granted a co-exclusive license limited to the use of the monoclonal antibodies of the subject invention with Tc-99m for in-vivo imaging of cancer and with Yttrium-90, Rhenium-186, Rhenium-188 and Iodine-125 for cancer radiotherapy. ImmunoMedics, Inc. would also be granted an exclusive license limited to the use of the monoclonal antibodies of the subject invention with Iodine-131 for cancer radiotherapy.

The present invention relates to the monoclonal antibodies(MAb) B1, B3, and B5. Of particular importance is the Mab B3 of this invention, which shows strong reactivity with the Lewis-Y antigen on many human solid tumors and has limited reactivity with normal human tissues. MAb B3 reacts strongly with all adenocarcinomas of the colon and 75% of them react strongly and homogeneously. MAb B3 has also shown similar strong reactivity with other gastrointestinal malignancies such as esophageal (80%) and gastric carcinomas (75%); MAb B3 reacts strongly with approximately 70% of adenocarcinomas of the lung and also reacts with about 40% of squamous cell carcinomas of the lung and 25% of large cell carcinomas. MAb B3 reacts heterogeneously with 70% of breast carcinomas and homogeneously with about 65% of adenocarcinomas of the prostate and 100% of transitional cell carcinomas of the bladder. Several important characteristics of MAb B3 make it an ideal candidate for further development for use as an immunotoxin for treatment of cancers: (1) Its strong and uniform reactivity with many human solid carcinomas; (2) its limited reactivity with normal tissues and (3) the fact that similar reactivity is found in normal monkey and human tissues (which allow for performance of preclinical toxicology studies with predictive value for a clinical trial).

ADDRESSES: Request for a copy of this patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Mr. Daniel R. Passeri, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, MD 20892. Telephone: (301) 496–7735; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent application. Properly filed competing applications for a licensee filed in response to this notice will be treated as objections to the contemplated license. Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer within sixty (60) days of this notice will be considered.

Dated: March 2, 1994.

Donald P. Christoferson,

Acting Director, Office of Technology Transfer.

[FR Doc. 94–5496 Filed 3–9–94; 8:45 am]

BILLING CODE 4140–01–M

Office of Community Services

State Median Income Estimates for Four-Person Families (1995 FY); Notice of the Fiscal Year (FY) 1995 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Fiscal Administered by the Administration for Children and Families, Office of Community Services, Division of Energy Assistance

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Notice of estimated state median income for FY 1995.

SUMMARY: This notice announces the estimated median income for four-person families in each state and the District of Columbia for FY 1995 (October 1, 1994 to September 30, 1995). This listing of estimated state median incomes concerns maximum income levels for households to which the states may make payments under the Low Income Home Energy Assistance Fiscal (LIHEAP).

EFFECTIVE DATE: The estimates are effective as of October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Leon Litow, Administration for Children and Families, HHS, Office of Community Services, Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone: (202) 401–5304.

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, as amended), we are announcing the estimated median income of a four-person family for each state, the District of Columbia, and the United States for FY 1995 (the period of October 1, 1994, through September 30, 1995).

Section 2605(b)(2)(B)(ii) of the LIHEAP statute provides that 60 percent of the median income for each state, as annually established by the Secretary of Health and Human Services, is one of the income criteria that states can use in determining a household's eligibility for LIHEAP.

LIHEAP is currently authorized through the end of Fiscal Year 1995 by the National Institutes of Health Revitalization Act of 1993, Pub. L. 103–43, which was enacted on June 10, 1993.

Title VII of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101–501), which added a new section 2602(c) to the Low-Income Home Energy Assistance Act of 1981 (title XXVI of Pub. L. 97–35, as amended), provided that LIHEAP funds would be available for obligation on the basis of a new "Program Year" of July 1 through June 30, rather than on the Federal "Fiscal Year" basis of October 1 to September 30. That change has not yet been implemented by appropriations actions, however. The FY 1994 HHS appropriations law (Pub. L. 103–112) has provided advance FY 1995 appropriations for LIHEAP to cover the nine-month period of October 1, 1994 to June 30, 1995. However, the President's Budget Request for FY 1995 proposes amending the funding level and making it available for the full 12 month fiscal year of October 1, 1994 to September 30, 1995.

Estimates of the median income of four-person families for each state and the District of Columbia for FY 1995 were developed by the Bureau of the Census of the U.S. Department of Commerce, using the most recent available income data. In developing the median income estimates for FY 1995, the Bureau of the Census used the following three sources of data: (1) The March 1993 Current Population Survey; (2) the 1990 Decennial Census of Population; and (3) 1992 per capita personal income estimates, by state, from the Bureau of Economic Analysis of the U.S. Department of Commerce.

For further information on the estimating method and data sources, contact Edward Welniak, Chief of the Income Statistics Branch, Housing and Household Economic Statistics Division, at the Bureau of the Census (301–763–8576).

A state-by-state listing of median income, and 60 percent of median income, for a four-person family for FY 1995 follows. The listing describes the method for adjusting median income for families of different sizes as specified in 45 CFR 96.85(b), which was published in the **Federal Register** on March 3, 1988 at 53 FR 6824.

Dated: March 2, 1994.

Donald Sykes,

Director, Office of Community Services.

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE

[FY 1995 [1]]

States	Estimated state median income, 4-person families [2]	60% of estimated state median income, 4-person families
Alabama	$39,659	$23,795
Alaska	49,632	29,779
Arizona	39,900	23,940
Arkansas	36,682	22,009
California	46,774	28,064
Colorado	45,021	27,013
Connecticut	55,061	33,037
Delaware	50,999	30,599
District of Columbia	45,782	27,469
Florida	40,925	24,555
Georgia	42,696	25,618
Hawaii	50,821	30,493
Idaho	38,844	23,306
Illinois	47,474	28,484
Indiana	43,674	26,204
Iowa	41,827	25,096
Kansas	42,285	25,371
Kentucky	38,512	23,107
Louisiana	38,061	22,837
Maine	40,924	24,554
Maryland	51,864	31,118
Massachusetts	51,172	30,703
Michigan	45,704	27,422
Minnesota	46,518	27,911
Mississippi	35,731	21,439
Missouri	41,926	25,156
Montana	37,174	22,304
Nebraska	42,207	25,324
Nevada	43,472	26,083
New Hampshire	48,385	29,031
New Jersey	55,634	33,380
New Mexico	36,299	21,779
New York	48,039	28,823
North Carolina	41,766	25,060
North Dakota	40,179	24,107
Ohio	43,636	26,182
Oklahoma	37,704	22,622
Oregon	41,558	24,935
Pennsylvania	45,015	27,009
Rhode Island	46,797	28,078
South Carolina	40,753	24,452
South Dakota	38,703	23,222
Tennessee	40,549	24,329
Texas	40,695	24,417
Utah	41,505	24,903
Vermont	43,167	25,900
Virginia	45,492	27,295
Washington	46,327	27,796
West Virginia	37,437	22,462
Wisconsin	44,444	26,666

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE—Continued

[FY 1995 [1]]

States	Estimated state median income, 4-person families [2]	60% of estimated state median income, 4-person families
Wyoming	43,126	25,876

[1] In accordance with 45 CFR 96.85, each state's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons,and 132% for six persons. For family sizes greater than six persons, add 3% to 132% for each additional family member and multiply the new percentage by the state's estimated median income for a 4-person family.

[2] Prepared by the Bureau of the Census from the March 1993 Current Population Survey, 1990 Decennial Census of Population and Housing, and 1992 per capita personal income estimates, by state, from the Bureau of Economic Analysis.

Note—FY 1995 covers the period of October 1, 1994 through September 30, 1995. The estimated median income for 4-person families living in the United States is $44,615 for FY 1995.

[FR Doc. 94–5538 Filed 3–9–94; 8:45 am]

BILLING CODE 4184–01–P

Public Health Service

National Toxicology Program; Board of Scientific Counselors, Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina, on April 6, 1994.

The meeting will open to the public from 8:30 a.m. to adjournment with attendance limited only by space available. The preliminary agenda topics with approximate times are as follows:

8:30 a.m.–9 a.m.—Report of the Director, NTP.

9 a.m.–9:25 a.m.—Meeting Reports/ Upcoming Meetings:

Update on Activities of the Technical Reports Review Subcommittee

Planned Workshop on Dose Selection

Report on NTP Executive Committee

9:25 a.m.–10:05 a.m.—Mechanism Based Toxicology and Risk Assessment.

10:05 a.m.–10:25 a.m.—Report from Advisory Group on Cell Proliferation/ Apoptosis.

10:45 a.m.–12 noon—Biennial Report on Carcinogens—Discussion of Possible Role of the Board in Review Process.

1:15 p.m.–1:35 p.m.—Report on Results/ Accomplishments and New Contract Awards in Past Year.

1:35 p.m.–1:50 p.m.—Toxicology Review Team Activities.

1:50 p.m.–2:50 p.m.—Concept Reviews.

3:10 p.m.–3:20 p.m.—Environmental Toxicology and Alternative Methods—NIEHS Role.

3:20 p.m.–4 p.m.—New Initiatives in Alternative/Environmental Sentinel Test Methodology at Fort Detrick.

4 p.m.–4:45 p.m.—Reports of Research Programs on Alternative Methods at NIEHS.

4:45 p.m.–5 p.m.—Discussion.

Adjournment

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, will have available a roster of Board members prior to the meeting and summary minutes subsequent to the meeting.

Dated: March 3, 1994.

Richard A. Greisemer,

Deputy Director, National Toxicology Program.

[FR Doc. 94–5494 Filed 3–9–94; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program (NTP) Board of Scientific Counselors' Meetings; Announcement of NTP Draft Technical Reports Projected for Public Review From June 1994 Through Fall 1995

To earlier inform the public and allow interested parties to comment or obtain information on long-term toxicology and carcinogenesis studies prior to public peer review, the National Toxicology Program (NTP) again publishes in the **Federal Register** a current listing of draft Technical Reports projected for evaluation by the NTP Board of Scientific Counselors' Technical Reports Review Subcommittee during their next four meetings from June 1994 through the fall of 1995. We plan to continue updating the listing with announcements in the **Federal Register** once or twice a year. The next meeting dates are June 21–22, 1994 and November 29–30, 1994. Specific dates for 1995 meetings will be established at a later time.

The attached table 1 lists draft Technical Reports for long-term studies on chemicals within known or approximate dates of reviews and includes Chemical Abstracts Service (CAS) registry numbers, primary use, route of administration, species, exposure levels, and NTP report numbers (if assigned).

Technical Reports of short-time toxicity studies are currently reviewed by mail; however, when necessary may be reviewed in open meetings. The attached Table 2 lists the draft Technical Reports of short-term toxicity studies tentatively projected for review by mail during 1994 and also includes Chemical Abstracts Service (CAS) registry numbers, primary use, route of administration, species, exposure levels, and NTP report numbers (if assigned).

Those interested in having more information about any of the studies listed in this announcement, should contact Central Data Management as early as possible by telephone or by mail to: MD–A0–01, NIEHS, P.O. Box 12233, Research Triangle Park (RTP), North Carolina 27709 (919–541–3419). The program would welcome receiving toxicology and carcinogenesis data from completed, ongoing or planned studies by others as well as current production data, human exposure information, and use and use patterns.

The Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone 919/541–3971, will furnish final agendas and other program information prior to a meeting, and summary minutes subsequent to a meeting.

Attachments.

Dated: March 3, 1994.

Richard Griesemer,

Deputy Director, National Toxicology Program.

TABLE 1.—LONG-TERM STUDIES TENTATIVELY SCHEDULED FOR PUBLIC PEER REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS' TECHNICAL REPORTS REVIEW SUBCOMMITTEE FROM JUNE 21, 1994, THROUGH FALL 1995

Chemical name/Cas No.	Use	Route	Species	Exposure levels	NTP TR No.
Chemicals Tentatively Scheduled for Peer Review June 21–22, 1994					
Acetonitrile, 75–05–8	Solv	Inhal	Rm	R:0, 100, 200, or 400 PPM M: 0, 50, 100, or 200 PPM; 50/group.	447
1-Amino-2,4-dibromoanthraquinone, 81–49–2	Dye	Feed	Rm	R: 0, .2, .5, 1.0, 2.0, M: 0, 1.0, 2.0 %/50/per group	383
Benzethonium chloride, 121–54–0	Germ	Sp	Rm	R&M: 0, 0.15, 0.5, 1.5 MG/KG/50/group	438
Tert-butyl alcohol, 75–65–0	Phar	Water	Rm	R: 0, 0.125, 0.25, 0.5% (M). 0, 0.25, 0.5, 1.0% (F). M: 0, 0.5, 1.0, 2.0% (M&F)/50 per group.	436
Init/prom comparative mouse study (DMBA/TPA/BPO/MNNG) init/prom.	Phar	SP	Mm	DMBA/Acetone (50, 25, 2.5UG), DMBA 2.5, TPA 5UG, BPO 20MG, DMBA/TPA (2.5, 25, 50UG/5UG), DMBA/BPO (2.5, 25UG/20MG) and MNNG/Acetone (1000, 500, 100UG), MNNG 100UG, TPA, 5UG, BPO 20MG, MNNG/BPO (100, 500, 1000UG/20MG), MNNG/TPA (100, 1000UG/5UG).	
Init/prom comparative mouse study (DMBA/TPA/BPO/MNNG) imit/prom.	Phar	Sp	Mm	DMBA/Acetone (25, 2.5, 25UG), DMBA 2.5, TPA 5 UG, BPO 20MG, DMBA/TPA (.25, 2.5, 25/5UG), DMBA/BPO (2.5, 25UG/20MG) and MNNG/Acetone (1000, 500, 100UG), MNNG 100UG, TPA 5UG, BPO 20MG, MNNG/BPO (100, 500, 1000UG/20MG), MNNG/TPA (1000, 1000UG/5UG).	441
Init/prom comparative mouse study (DMBA/TPA/BPO/MNNG) init/prom.	Phar	Sp	Mm	DMBA/Acetone (25, 2.5, 25UG), DMBA 2.5, TPA 5UG, BPO 20MG, DMBA/TPA (.25, 2.5, 25/5UG), DMBA/BPO (2.5, 25UG/20MG) and MNNG/Acetone (1000, 500, 100UG), MNNG 100UG, TPA 5UG, BPO 20MG, MNNG/BPO (100, 500, 1000UG/20MG), MNNG/TPA (1000, 1000UG/5UG)..	441
Init/prom comparative mouse study (DMBA/TPA/BPO/MNNG) init/prom.	Phar	Sp	Mm	DMBA/Acetone (25, 2.5, .25UG): DMBA 2.5:TPA 1UG:BPO 20MG: DMBA/TPA (.25, 2.5, 25/1UG): DMBA/BPO (2.5, 25UG/20MG) and MNNG/Acetone (1000, 500, 100UG): MNNG 100UG:TPA 5UG:BPO 20MG: MNNG/BPO (100, 500, 1000 UG/20MG).	441
1-trans-delta-9-tetrahydro-cannabinol, 1972–08–3	Phar	Gav	Rm	R: 0, 12.5, 25, or 50; M: 0, 125, 250, or 500 MG/KG; 50/group.	
Chemicals Tentatively Scheduled for Peer Review November 29–30, 1994					
2,2-Bis(Bromomethyl)-1,3-Propanediol, 3296–90–0	Flam	Feed	Rm	R: 0, 2500, 5000, or 10000 PPM; 70/group M: 0, 312, 625, or 1250 PPM; 60/group.	
Isobutyl nitrite, 542–56–3	Intr	Inhal	Rm	R&M: 0, 37, 75, or 150 PPM.	
Nickel (II) oxide, 1313–99–1	Intr	Inhal	Rm	R: 0, .62, 1.25, or 2.5 M: 0, 1.25, 2.5, or 5.0 MG/M3; 50/group.	
Nickel sulfate hexahydrate, 10101–97–0	Intr	Inhal	Rm	R: 0, 0.125, 0.25, or 0.5 M: 0, .25, .5, or 1.0 MG/M3; 50/group.	
Nickel subsulfide, 12035–72–2	Envh	Inhal	Rm	R: 0, 0.075, or 0.15 M: 0, 0.6, or 1.2 MG/M3; 50/group.	
Triethanolamine, 102–71–6	Dtrg	Sp	Rmm	MR: 0, 32, 63, or 125; FR: 0, 63, 125, or 250; MM: 0, 200, 630, or 2000; FM: 0, 100, 300, or 1000 MG/KG; 60/group.	
Chemicals Tentatively Scheduled for Peer Review Summer 1995					
Butyl benzyl phthalate, 85–68–7	Plas	Feed	Rr	MR: 0, .3%, .6%, or 1.2%; 60/group FR: 0, .6%, 1.2%, or 2.4%; 60/group.	
T-butylhydroquinone, 1948–33–0	Food	Feed	Rmr	R&M: 0, 0.125, 0.25, or 0.5% in feed; 70 rats, 60 mice.	
Codeine, 76–57–3	Phar	Feed	Rm	R: 0, 400, 800, or 1600 M: 0, 750, 1500, or 3000 PPM; 60/group.	
1,2-dihydro-2,2,4-trimethylquinoline (monomer), 147–47–7.	Rubr	Sp	Rmm	Rats: 0, 60, or 100 MG/KG, Mice: 0, 6, or 10 MG/KG (core).	
1,2-dihydro-2,2,4-trimethylquinoline (monomer), 148–47–7.	Rubr	Sp	Rm	Rats: 0, 36, 60, or 100 MG/KG, Mice: 0, 3.6, 6.0, or 10.0 MG/KG.	
Salicylazosulfapyridine, 599–79–1	Phar	Gav	Rm	R: 84, 168, or 337.5 MG/KG; 70/group M: 675, 1350, or 2700 MG/KG; 60/group.	

TABLE 1.—LONG-TERM STUDIES TENTATIVELY SCHEDULED FOR PUBLIC PEER REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS' TECHNICAL REPORTS REVIEW SUBCOMMITTEE FROM JUNE 21, 1994, THROUGH FALL 1995—Continued

Chemical name/Cas No.	Use	Route	Species	Exposure levels	NTP TR No.
Scopolamine hydrobromide trihydrate, 6533–68–2	Phar	Gav	Rmm	R&M: 0, 1, 5, or 25 MG/KG; 70/group diet restriction, Mice: 0 or .25 MG/KG; 70/group.	
Chemicals Tentatively Scheduled for Peer Review Fall 1995					
D & C yellow No. 11, 8003–22–3	Dye	Feed	R	Rats: 0, 0.05, 0.17, or 0.5%; 60/group.	
ethylbenzene, 100–41–4	Rubr	Inhal	Rm	R&M: 0, 75, 250, or 750 PPM (50/sex/species/group).	
Molybdenum trioxide, 1313–27–5	Metl	Inhal	Rm	R&M: 10, 30, or 100 MG/M3; 50/sex/species/group.	
Nitromethane, 75–52–5	Fuel	Inhal	Rm	R: 0, 94, 188, or 375 PPM; 50/group M: 0, 188, 375, or 750 PPM; 50/group.	
Tetrafluoroethylene, 116–14–3, PPM: 50/group	Food	Inhal	Rm	Mice & FR: 0, 312, 625, or 1250 MR: 0, 156, 312, or 625.	

Abbreviations Used in the Report

Use: Primary Use Category:
Comt Contaminates and/or Impurities
Cosm Cosmetics, Perfumes, Fragrances, Hair Preparations, Skin Lotions
Dtrg Detergents and Cleansers
Dye As or in Dyes, Inks, and Pigments
Elec In Electrical and/or Dielectric Systems or Products
Envh Environmental (Air/Water) Pollutants
Flam Flame Retardants
Food Food, Beverages, or Additives
Fuel As or in Fuel or Oil Products
Germ Germicides, Disinfectants, Antiseptics
Herb Herbicide(s)
Ind Industrial Uses
Intr Chemical Intermediate or Catalyst
Labc Unspecified Chemical Uses not Fitting in Solv, Intr, or Reag categories
Metl Metals or in Metal Products
Papr As or in Paper or Paper Products
Pest Pesticides, General or Unclassified
Phar Pharmaceuticals or Intermediates
Plas As or in Plastics
Pnt Paint Ingredient
Rubr Rubber Chemical
Solv Vehicles and Solvents
Texl In Manufacture of Textiles
Route Route of Administration:
Feed Dosed-Feed
Gav Gavage
Inhal Inhalation
IP/IJ Intraperitoneal Injection
Ivag Intravaginal
Micro Microencapsulation in Feed
SC&GV Subcutaneous Inj. + Gavage
SP Topical
Water Dosed-Water
Spec Species:
R=Rats
M=Mice

TABLE 2.—SHORT-TERM TOXICITY STUDIES SCHEDULE FOR PEER REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS' TECHNICAL REPORTS REVIEW SUBCOMMITTEE DURING 1994

Chemical name/CAS No.	Use	Route	Species	Exposure levels	NTP TR No.
Short-Term Toxicity Studies Scheduled for Peer Review January 1994					
Beta-bromo-beta-nitrostyrene, 7166–19–0	Pest	Gav	Rm	R&M 0, 0.037, 0.075, 0.3, 0.15, 0–.6 G/KG; 10/group.	40
Short-Term Toxicity Studies Scheduled for Peer Review February 1994					
1,3-diphenylguanidine 102–06–7	Rubr	Feed	Rm	R&M: 250, 500, 750, 1500, 3000 PPM/10 Per Group.	42
1–nitropyrene 5522–43–0	Labc	Inhal	R	R: 0, 0.5, 2.0, 8.0, 20.0, OR 50.0 MG/M3 12/S/group (CORE); 5/S/group for lung burden.	34
Short-Term Toxicity Studies Scheduled for Peer Review April 1994					
Dibutyl phthalate 84–74–2	Plas	Feed	Rm	In utero with F344 Rats; see 30 C62022B	30
Dibutyl phthalate 84–74–2	Plas	Feed	Rm	R: 0, 2500, 5000, 10000, 20000, OR 40000 Ppm R: 0, 1250, 2500, 5000, 10000, 20000 PPM (10/S/S).	30
Methapyrilene hydrochloride 135–23–9	Phar	Feed	R	Male rats: 0, 50, 100, 250, 1000 PPM; 40/group	46
Short-Term Toxicity Studies Scheduled for Peer Review May 1994					
Cyclohexanone oxime 100–64–1	Plas	Water	M	0, 625, 1250, 2500, 5000, OR 50 10000 PPM; 10/group.	50
Lead ores leadores	Metl	Feed	R	Ores: Males rats, 30/Group; lead sulfide used as standard: male and female 30/Group; 10 add'l males treated 180 days (PB sulfide) 0, 10, 30, & 100 PPM; particle size <38 microns; 30, 60, 90-day sacrifice.	48
Lead sulfide 1314–87–0	Pnt	Feed	R	Rats: male and female 0, 10, 30, 100 PPM, 10/Group 30, 60, 90, 180 day sac.	48

TABLE 2.—SHORT-TERM TOXICITY STUDIES SCHEDULE FOR PEER REVIEW BY THE NTP BOARD OF SCIENTIFIC COUNSELORS' TECHNICAL REPORTS REVIEW SUBCOMMITTEE DURING 1994—Continued

Chemical name/CAS No.	Use	Route	Species	Exposure levels	NTP TR No.
Methylene blue trihydrate, 7220–79–3	Dye	Gav	Rm	R&M: 0, 0.125, 0.25, 0.5, 1.0, 2.0 GM/KG Body wt. R: 20/Group/Sex; M: 10/group/sex.	51
Methyl ethyl ketoxime, 96–29–7	Pnt	Water	Rm	R&M: 0, 625, 1250, 2500, 5000, OR 10000 PPM; 10/group.	
Short-Term Toxicity Studies Scheduled for Peer Review June 1994					
Class Study of Halogenated Ethanes:					
1,2-pitchloro-1,1-difluoroethane 1649–08–7	Ind	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
1,2-difluror-1,1,2,2-tetra-chloroethane 76–12–0	Solv	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
Hexachloroethane 67–72–1	Solv	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
Pentabrómoethane 75–95–6	Ind	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
Pentachloroethane 76–01–7	Solv	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group; female rats 0, 1,24 MMOL/KG/DAY;.	45
1,1,1,2-tetrabromoethane 630–16–0	Ind	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
1,1,2,2-tetrabromoethane 79–27–6	Flam	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
1,1,1,2-tetrachloroethane 630–20–6	Intr	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
1,1,2,2-tetrachloroethane 79–34–5	Solv	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
1,1,1-trichloroethane 71–55–6	Solv	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
1,1,1-trichloro–2,2,2-trifluoroethane 354–58–5	Ind	Gav	R	Male rats 0, 0.62, 1.24 MMOL/KG/DAY; 5/group	45
Short-Term Toxicity Studies Scheduled for Peer Review 1994					
Cadium oxide 1306–19–0	Elec	Inhal	Rm	R,M: 0, 0.025, 0.05, 0.1, 0.25 OR 1.0 MG/M3 (10/S/S).	39
Cadium oxide 1306–19–0	Elec	Inhal	Rm	Rats & Mice: 0, 0.025, 0.05, 0.1, 0.25 OR 1.0 MG/MG (10/S/S).	39
Short-Term Toxicity Studies Scheduled for Peer Review August 1994					
Methacrylonitrile 126–98–7	Plas	Gav	Rm	R: 0,7.5,15.0,30.0,0,60.0,120.0 MG/KG/DAY; M: 0,0.75,1.5,3.0,6.0,12.0 MG/KG/DAY; RATS: 20/Grp; Mice: 10/group.	47
Short-Term Toxicity Studies Scheduled for Peer Review September 1994					
Benzophenone 119–61–9	Phar	Feed	Rm	R&M: 0,0.125,0.25,0.5,1.0,2.0%; R: 20/sex/grp; M: 10/SEX/group.	
M-chloroaniline 108–42–9	Intr	Gav	Rm	R&M 0, 10, 20, 40, 80, 160 MG/KG, 20/GRP (RATS); 10/group mice.	43
O-chloroaniline 95–51–2	Dye	Gav	Rm	R&M 0, 10, 20, 40, 80 & 160 MG/KG, 20/Group (rats); 10/group mice.	43
O-nitrotoluene 88–72–2	Rubr	Feed	R	Male R: 0, 0 altered microflora 20/Grp; 5000 PPM 60/grp; 5000 ppm altered microflora 40/group..	44
3,3′,4,4′-tetrachloro-azobenzene 14047–09–7	Herb	Gav	Rm	R&M: 0, 0.1, 1.0, 3.0, 10, OR 30 MG/KG body weight (M&F; 10/group).	
3,3′,4,4′-tetrachloro-azobenzene 21232–47–3	Comt	Gav	Rm	R&M: 0, 0.1, 1.0, 3.0, 10, OR 30 MG/KG body weight (M&F; 10/group).	
O-toluidine hydrochloride 636–21–5	Dye	Feed	R	O and 0 altered microflora; 20/group; 5000 PPM; 60 group.	44
Short-Term Toxicity Studies Scheduled for Peer Review October 1994					
Oxymetholone 434–07–1	Phar	Gav	Rm	R: 0, 80, 160, 315, 625, OR 1250 MG/KG; 20/sex/group M: 0, 160, 320, 630, 1250, OR 2500 MG/KG; 10/sex/group.	49
1,1,1-trichloroethane 71–55–6	Solv	Micro	Rm	R&M: 0, 0.5, 1.0, 2.0, 4.0, and 8.0 % (10/S/S).	

Abbreviations Used in this Report

Use: Primary Use Category:
Comt Contaminates and/or Impurities
Cosm Cosmetics, Perfumes, Fragrances, Hair Preparations, Skin Lotions
Dtrg Detergents and Cleansers
Dye As or in Dyes, Inks, and Pigments
Elec in Electrical and/or Dielectric Systems or Products
Envb Environmental (Air/Water) Pollutants
Flam Flame Retardants
Food Food, Beverages, or Additives
Fuel As or in Fuel or Oil Products
Germ Germicides, Disinfectants, Antiseptics
Herb Herbicide(s)
Ind Industrial Uses
Intr Chemical Intermediate or Catalyst
Labc Unspecified Chemical Uses not Fitting in SOLV, INTR, or REAG categories
Metl Metals or in Metal Products
Papr As or in Paper or Paper Products
Pest Pesticides, General or Unclassified
Phar Pharmaceuticals or Intermediates
Plas As or in Plastics
Pnt Paint Ingredient
Rubr Rubber Chemical
Solv Vehicles and Solvents
Texl In Manufacture of Textiles
Route Route of Administration:
Feed Dosed-Feed

Gav Gavage
Inhal Inhalation
IP/IJ Intraperitoneal Injection
Ivag Intravaginal
Micro Microencapsulation in Feed
SC&GV Subcutaneous Inj. + Gavage
SP Topical
Water Dosed-Water
Spec Species:
R = Rate
M = Mice

[FR Doc. 94–5493 Filed 3–9–94; 8:45 am]
BILLING CODE 4140–01–M

National Institutes of Health

Prospective Grant of Exclusive Patent License

AGENCY: National Institutes of Health, Public Health Services, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license in limited fields of use to practice the inventions embodied in U.S. Patent 4,371,673 (formerly U.S. Patent Application 06/170,570) and its foreign counterparts, entitled "Water Soluble Forms of Retinoids" to Samuelsson & Wadstein Medicina AB having a place of business at Lund, Sweden. The patent rights in these inventions have been assigned to the United States of America

The prospective exclusive license will be for the fields of skin care products for topical application and wound healing for topical application. It will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

This invention relates to cyclodextrin complexes of retinoid-polymers and complexes of retinoids with ether type derivatives of cyclodextrins. The U.S. patent issued on February 1, 1983 and contains both composition of matter and method of making claims to these complexes.

ADDRESSES: Requests for a copy of the above identified patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Mr. Mark Hankins, J.D., Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, Maryland 20892 (telephone: (301) 496–7735; FAX: (301) 402–0220). Properly filed competing applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer within sixty (60) days of this notice will be considered.

Dated: February 16, 1994.

Donald P. Christoferson,

Acting Director, Office of Technology Transfer.

[FR Doc. 94–5491 Filed 3–9–94; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–94–3649; FR–3403–N–02]

Elder Cottage Housing Opportunity Demonstration Announcement of Funding Awards for FY 1993

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding award decisions made by the Department under the Elder Cottage Housing Opportunity (ECHO) Demonstration Program for FY 1993. This announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: Margaret Milner, Acting Director, Office of Elderly and Assisted Housing, Room 6130, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–4542. TDD number (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The ECHO housing demonstration program is authorized by section 806(b) of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990) (NAHA), as amended by section 602(d) of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

The ECHO housing demonstration program is a demonstration program which allows a nonprofit section 202 owner to place a small, free-standing, barrier free, energy efficient, and removable dwelling unit (ECHO unit) adjacent to the existing single family home of a friend or relative of an eligible elderly person.

The purpose of the ECHO housing demonstration program is to determine the feasibility of incorporating ECHO units into the section 202 capital advance program. Specifically, the Secretary is directed to examine the durability of ECHO units, and determine whether the ECHO units are durable enough for continued use over the life of a capital advance (40 years).

A Notice of Funding Availability (NOFA) announcing HUD's FY 1993 funding of $4,533,562 in Capital Advances for construction of ECHO units was published on August 27, 1993 (58 FR 45384). A total of $5,352,800 in Capital Advances for construction of 100 ECHO units was awarded to seven non-profit organizations. (A total of $11,800,800 was awarded to the recipients; however, this figure includes the project rental assistance contract amount, in addition to the Capital Advance amount.) The difference between the amount awarded Capital Advances and the amount announced as available in the August 27, 1993 NOFA results from the fact that the NOFA amount was based on development costs per unit on a national basis. The projects selected were largely in areas where the per unit development cost is above the national average. In addition, subsequent to the publication of the NOFA, the Department published new higher cost factors which were higher in most areas, thereby increasing the total amount awarded for capital advances. Section 806(b) of NAHA requires that HUD fund 100 ECHO units from FY 1993 and 1994 Section 202 appropriations. (HUD opted to fund all 100 ECHO units from FY 1993 section 202 appropriations.) Because section 806(b) requires that HUD fund 100 ECHO units, without regard to the actual cost of those 100 ECHO units, the Department had to use additional funds from the section 202 appropriations to fund the 100 ECHO units.

The recipients were chosen in a national competition under selection criteria announced in the August 27, 1993 NOFA. In accordance with section 102 (a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing the names and addresses of the projects awarded funds under the

FY 1993 NOFA, and the amount of awards are attached to this Notice.

Dated: March 4, 1994.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

AWARDEES FOR THE ELDER COTTAGE HOUSING OPPORTUNITY DEMONSTRATION PROGRAM FY 1993

	Units	Capital advance	PRAC annual contract amount
Region: New York, New Jersey (Formerly Region II):			
Phillipsburg—031–EE022/NJ39–S932–001 NW New Jersey CAP 350 Marshall Street Phillipsburg, NJ 08865	20	$1,499,700	$93,200
Subtotal	20	1,499,700	93,200
Region: Southeast (Formerly Region IV):			
Knoxville—087–EE013/TN37–S932–001 Leadership Associates 408 N Cedar Bluff Road Knoxville, TN 37923	20	943,700	53,500
Louisville—083–EE030/KY36–S932–001 Christian Church Homes KY 12700 Shelbyville Road Louisville, KY 40243	10	513,900	29,100
Jacksonville—066–EE025/FL29–S932–001 CODEC, Inc. 300 SW–12th Avenue Miami, FL 33130	10	542,900	28,400
Subtotal	40	2,000,500	111,000
Region: Great Plains (Formerly Region VII):			
Kansas City—102–EE011/KS16–S932–001 Contemporary Housing Alt. 534 S. Kansas Avenue Topeka, KS 66603	20	898,500	56,300
Des Moines 074–EE013/IA05–S932–001 S. Central Iowa Dev. Corp 107 NW 2nd Street Leon, IA 50144	10	484,800	28,400
St. Louis 085–EE020/MO36–S932–001 DELMO Housing Corp P.O. Box 354 Lilbourn, MO 63802	10	469,300	33,500
Subtotal	40	1,852,600	118,200
Total	100	5,352,800	322,400
Total Capital Advance Plus 20-Year Prac			11,800,800

[FR Doc. 94–5533 Filed 3–9–94; 8:45 am]
BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–4333–04]

Nevada; Temporary Closure of Certain Public Lands in the Winnemucca District for Management of the Spring 1994 Running of the "RENO 300" Off-Highway Vehicle (OHV) Race

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of certain Public Lands in Washoe, Lyon and Churchill Counties, Nevada on and adjacent to the Spring 1994 "Reno 300" race course on April 30, 1994. Access will be limited to race officials entrants, law-enforcement and emergency personnel, licensed permittee(s) and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in the Winnemucca District, Washoe, Lyon and Pershing Counties will be temporarily closed to public access from 0600 hours, April 24, 1994 to 2400 hours April 30, 1994, to protect persons, property and public land resources on and adjacent to the Spring 1994 "Reno 300" OHV race course. The Sonoma-Gerlach Area Manager is the authorized officer for the Spring 1994 "Nevada 300" OHV race, permit number N2–1–94. These temporary closures and restrictions are made pursuant to 43 CFR Part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washed identified as the Spring 1994 "Reno 300" OHV race course.

The following public lands administered by the BLM restricted or closed are described as the following: T. 22 N., R. 24 E., Sec. 2, 12, 18, and 30; T. 23 N., R. 24 E., Sec. 2, 12, 14, and 26; T. 24 N., R. 24 E., Sec. 10, 12, 16, 17, 20, 26, 28, 34, and 36; T. 21 N., R. 25 E., Sec. 6, 8, 12, 14, 20, 22, 28, and 32; T. 22 N., R. 25 E. Sec. 30; T. 23 N., R. 25 E., Sec. 2, 6, and 10; T. 24 N., R. 25 E., Sec. 6, 8, 18, 20, and 30; T. 25 N., R. 25 E., Sec. 30, 31, and 32; T. 21 N., R. 26 E., Sec. 6 and 8; T. 22 N., R. 26 E., Sec. 2, 14, 22, 28, and 32; T. 23 N., R. 26 E., Sec 6, 16, 22, 26, and 36.

The following public lands administered by the BLM will be designated as a secondary pit area: T. 23 N., R. 24 E., Sec. 14.

The lands involved are located in the Mount Diablo Meridian and are located north and northeast of Fernley, Nevada. They are within Washoe, Pershing and Lyons Counties, A map showing the exact route of the course is available from the following BLM office: the Winnemucca District Office, 705 East Fourth Street, Winnemucca, Nevada, 89445, (702) 623–1500.

Any person who fails to comply with this closure order issued under 43 CFR part 8364 may be subject to the penalties provided for in 43 CFR 8360.7.

FOR FURTHER INFORMATION CONTACT: Lynn Clemons, 705 East Fourth Street, Winnemucca, Nevada 89445, (702) 623–1500.

Ron Wenker,

District Manager, Winnemucca.

[FR Doc. 94–5581 Filed 3–9–94; 8:45 am]
BILLING CODE 4333–HC–M

[NM–940–4120–04; OKNM 92222]

Invitation To Participate; Exploration for Coal in Oklahoma; Correction

In notice document 94–59, No. 4, beginning on page 775 in the issue of Thursday, January 6, 1994, make the following corrections:

1. On page 775, in the second column, under T. 8 N., R. 25 E., correct sec. 6 to read as follows: "sec. 6, lots 6 and 7, NE¼SW¼, N½SE¼SW¼, N½SE¼, and N½SW¼SE¼."

2. On the same page, same column, change acreage to read "aggregating 997.46 acres, more or less."

Dated: March 2, 1994.

Frank Splendoria,

Deputy State Director.

[FR Doc. 94–5584 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–FB–M

[NM–940–4120–04; OKNM 92221]

Invitation To Participate; Exploration for Coal in Oklahoma; Correction

In notice document 94–59, No. 4, beginning on page 775 in the issue of Thursday, January 6, 1994, make the following corrections:

1. On page 775, in the first column, under T. 6 N., R. 20 E., correct sec. 35 to read as follows: "sec. 35, S½S½SW¼ and S½SE¼."

2. On the same page, same column, under T. 6 N., R. 21 E., correct sec. 31 to read as follows: "sec. 31, lots 2, 3, and 4, S½S½NE¼, S½SE¼NW¼, E½SW¼, and SE¼;"

3. On the same page, same column, under T. 6 N., R. 21 E., following sec. 33, S½S½N½ and S½; insert "sec. 35, N½S½ and N½S½S½;", and following sec. 35, insert "sec. 36, N½S½ and N½S½S½."

4. On the same page, same column, under T. 6 N., R. 22 E., correct sec. 31 to read as follows: "Sec. 31, lots 3 and 4, NE¼SW¼, N½SE¼SW¼, N½SE¼, and N½S½SE¼."

5. On the same page, same column, under T. 6 N., R. 23 E., correct sec. 31 to read as follows: "sec. 31, lot 3, NE¼SW¼ and N½SE¼."

6. On the same page, same column, change acreage to read "aggregating 4,230,37 acres, more or less."

Dated: March 2, 1994.

Frank Splendoria,

Deputy State Director.

[FR Doc. 94–5585 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–FB–M

[MT–930–04–4320–01]

Notice To Withdraw Decision Records on the Statewide Environmental Assessment for Predator Management in the Lewistown District Office, MT, et al.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The State Director for Montana announces that on March 3, 1994, the District Managers in all three Montana districts withdrew their Decisions, issued November 17, 1993, on Predator Management.

FOR FURTHER INFORMATION CONTACT: Sandy Brooks, Project Lead, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107–6800, 406–255–2929.

SUPPLEMENTARY INFORMATION: Based on the need to review and revise the Environmental Assessment for Predator Management in Montana, the Lewistown, Miles City, and Butte District Managers have withdrawn their Decision Records. Following review and revision of the environmental assessment, separate decisions on predator management will be reissued for each Montana district.

Dated: March 4, 1994.

Francis R. Cherry, Jr.,

Acting State Director.

[FR Doc. 94–5499 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–DN–P

[ID–942–04–406A–02]

Filing of Plats of Survey; Idaho

The supplemental plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., March 2, 1994.

The supplemental plat prepared to show amended lottings in sections 5 and 6, Township 12 South, Range 17 East, Boise Meridian, Idaho, was accepted February 28, 1994.

This plat was prepared to meet certain administrative needs of the Bureau of Land Management.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: March 2, 1994.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 94–5588 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–GG–M

[WY–980–4340–04]

Filing of Plats of Survey; Wyoming

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 Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 49 N., R. 60 W., accepted March 2, 1994
T. 51 N., R. 95 W., accepted March 2, 1994
T. 38 N., R. 112 W., accepted March 2, 1994
T. 19 N., R. 93 W., accepted March 2, 1994
T. 52 N., R. 105 W., accepted March 2, 1994
T. 49 N., R. 106 W., accepted March 2, 1994
T. 48 N., R. 106 W., accepted March 2, 1994
T. 49 N., R. 105 W., accepted March 2, 1994
T. 50 N., R. 105 W., accepted March 2, 1994

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 2515 Warren Ave., Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, metes and bounds surveys, retracements and surveys.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: March 2, 1994.

John P. Lee,

Chief, Branch of Cadastral Survey.

[FR Doc. 94–5583 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–22–M

[NV–930–4210–05; N–57229]

Realty Action: Lease of Public Land in Clark County, NV

AGENCY: Bureau of Land Management.

ACTION: Initiation of a 45 day public comment period on the proposed lease of public land for airport purposes.

SUMMARY: Pursuant to the authority in the Act of May 24, 1928, as amended (49 U.S.C. appendix, 211–213), a 45 day public comment period is initiated on the following land proposed to be lease for airport purposes to Clark County:

Mount Diablo Meridian, Nevada

T. 25 S., R. 59 E.,
Sec. 14: SW¼NE¼.
Sec. 23: NE¼NE¼, SW¼NE¼, E½NW¼.
Containing 200.00 acres, more or less.

SUPPLEMENTARY INFORMATION: The public land is located in Jean, Nevada. The land is adjacent to lands currently owned by Clark County and will allow for the required approach safety zone. The land is not needed for Federal purposes. Lease of the land is consistent with current BLM land use planning and would be in the public interest.

This notice segregates the above described land from operations of the public land laws, including the general mining laws. The segregative effect will end upon issuance of the lease or one year from the date of this publication, whichever occurs first.

DATES: For a period of 45 days from March 10, 1994, interested parties may submit comments.

ADDRESSES: Written comments should be sent to: Stateline Resource Area Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the decision to approve this realty action will become a final determination of the Department of the Interior 60 days from the date of publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Cheryl Ruffridge, Stateline Resource Area Realty Specialist, Bureau of Land Management, 4765 W. Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 647–5000.

Dated: March 3, 1994.

Gary Ryan,

District Manager, Las Vegas, NV.

[FR Doc. 94–5582 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–HC–M

[CACA 33906, CACA 33907, CACA 33908, CACA 33909, CACA 33910]

Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 439.87 acres of National Forest System lands in Nevada, Sierra and Yuba counties, to protect various recreation areas and a roadside zone. This notice closes the lands for up to 2 years from location and entry under the United States mining laws. The lands will remain open to all other uses which may be made of National Forest System lands.

DATES: Comments and requests for a public meeting should be received on or before June 8, 1994.

ADDRESSES: Comments and requests for a public meeting should be sent to the California State Director, BLM, 2800 Cottage Way, Room E–2845, Sacramento, California 95825–1889.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office, 916–978–4820.

SUPPLEMENTARY INFORMATION: On January 24, 1994, the United States Department of Agriculture, Forest Service filed 5 applications to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights: All located in Tahoe National Forest.

Mount Diablo Meridian

CACA 33096

Union Flat Campground

T. 20 N., R. 11 E.,
Sec. 28, SE¼SW¼;
Sec. 33, N½NE¼NW¼.

CACA 33907

Wild Plum Campground

T. 20 N., R. 12 E.,
Sec. 26, S½SE¼SW¼;
Sec. 27, N½SW¼SE¼, SE¼SW¼SE¼, and SE¼SE¼.

CACA 33908

Ramshorn Campground

T. 19 N., R. 9 E.,
Sec. 1, N½SE¼ and N½N½S½SE¼.

CACA 33909

Oregon Creek Picnic Area and Roadside Zone for California State Highway 49

T. 18 N., R. 8 E.,
Sec. 28, SW¼SW¼SE¼NE¼, W½NE¼SE¼, S½SE¼NE¼SE¼, E½NW¼SE¼, N½NE¼SE¼SE¼, and N½N½NW¼SE¼SE¼.

CACA 33910

South Yuba No. 1—Keleher Picnic Site; South Yuba No. 3—Golden Quartz Picnic Site

T. 17 N., R. 11 E.,
Sec. 9, Lots 14, 15.
Sec. 6, SE¼SE¼SW¼, SW¼SE¼, N½SE¼SE¼, and SW¼SE¼SE¼;

The areas described aggregate 439.87 acres in Nevada, Sierra and Yuba counties, California.

Until June 8, 1994, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director before June 8, 1994. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are land uses permitted by the Forest Service under existing laws and regulations.

Dated: February 24, 1994.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 94–5609 Filed 3–9–94; 8:45 am]

BILLING CODE 3410–11–P

[ID–943–406A–02; IDI–30525]

Notice of Proposed Withdrawal and Opportunity for Public Meeting: Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 40 acres of National Forest System lands for protection of a dam, powerhouse and access road. This notice closes the lands

for up to 2 years from location and entry under the United States mining laws. The lands will remain open to all other uses which may be made of National Forest System lands.

DATES: Comments or requests for a meeting should be received on or before June 8, 1994.

ADDRESSES: Comments and meeting requests should be sent to the Idaho State Director, BLM, 3380 Americana Terrace, Boise, Idaho 83706–2500.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, BLM, Idaho State Office, (208) 384–3166.

SUPPLEMENTARY INFORMATION: On February 17, 1994, the United States Department of Agriculture, Forest Service filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Boise Meridian

Boise National Forest

T. 5 N., R. 11 E.,
Sec. 5, lot 8.

The area described contains 40 acres in Elmore County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Idaho State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Idaho State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are presently authorized leases, licenses, permits, rights-of-way, etc.

Dated: March 1, 1994.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 94–5580 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–GG–M

Bureau of Reclamation

Privacy Act of 1974—Deletion of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is deleting from its inventory of Privacy Act systems of records six notices describing records maintained by the Bureau of Reclamation. The systems of records notices being abolished are entitled "Accounts Receivable—Interior, Reclamation-2," which was previously published in the **Federal Register** on December 21, 1988 (53 FR 51324), "Collection Contracts—Interior, Reclamation-6," which was previously published in the **Federal Register** on November 16, 1984 (49 FR 45492), "Publication Sales—Interior, Reclamation-27," which was previously published in the **Federal Register** on April 11, 1977 (42 FR 19103), "Travel Approval Authorizations and Reports—Interior, Reclamation-35," which was previously published in the **Federal Register** on April 11, 1977 (42 FR 19106), "Travel Vouchers—Interior, Reclamation-36," which was previously published in the **Federal Register** on September 27, 1984 (49 FR 38196), and "Vendor Payment Records—Interior, Reclamation-44," which was previously published in the **Federal Register** on April 11, 1977 (42 FR 19108). These systems of records are no longer being maintained in the Department of the Interior.

Prior to October 14, 1992, the Bureau of Reclamation maintained a separate record of individuals who owed money to the Bureau for the purpose of accounting for payments received (Reclamation-2); a record of individuals who rent, lease or buy from the Bureau under a collection contract or agreement for the purpose of collecting funds due (Reclamation-6); a record of individuals purchasing Bureau publications for the purpose of accounting for funds received from the sale of publications (Reclamation-27); a record of travel authorizations for the purpose of authorizing employees to travel on official business (Reclamation-35); a record of travel vouchers for the purpose of paying the travel and transportation expenses of employees who travel on official business (Reclamation-36); and a record of individuals furnishing services or supplies for the purpose of documenting the disbursement of funds to these individuals (Reclamation-44).

With the establishment of the Departmentwide system of records "Federal Financial System—Interior, DOI-90" (57 FR 47118), these systems became obsolete. On December 14, 1992, the records maintained in these systems were incorporated into the Federal Financial System.

These changes shall be effective on publication in the **Federal Register** (March 10, 1994). Additional information regarding this action may be obtained from the Departmental Privacy Act Officer, Office of the Secretary, Office of Administrative Services, 1849 "C" Street NW., Mail Stop 5412 MIB, Washington, DC 20240, telephone (202) 208–6045.

Dated: March 3, 1994.

Albert C. Camacho,

Director, Office of Administrative Services.

[FR Doc. 94–5589 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–94–M

Fish and Wildlife Service

RIN 1018–AC06

Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of final guidelines.

SUMMARY: These final technical Guidelines are being published in response to section 5605, Guidance and Notification, of the Clean Vessel Act of 1992, which requires the issuance of draft technical guidelines for public comment within 3 months after the date of the enactment of this Act, and the issuance of final technical guidelines within 6 months after the date of enactment. The technical guidelines should be used by States to conduct surveys and develop plans for pumpout stations and dump stations, to develop education/information programs, and to construct pumpout stations and dump stations.

DATES: These final technical guidelines are effective April 11, 1994.

ADDRESSES: Copies of the final guidelines may be obtained by mailing a request to the Division of Federal Aid, Fish and Wildlife Service, U.S. Department of the Interior, 1849 C Street, NW. (Mailstop 140 ARLSQ), Washington, DC 20240, or by picking it up at the Division of Federal Aid, Fish

and Wildlife Service, room 140, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Columbus Brown, Chief, Division of Federal Aid, (703) 358–2156.

SUPPLEMENTARY INFORMATION:

Background

Findings

The Congress found that there is currently an inadequate number of pumpout stations for Type III marine sanitation devices (MSD) (holding tanks) where recreational vessels normally operate; and, sewage discharged by recreational vessels, because of an inadequate number of pumpout stations, is a substantial contributor to localized degradation of water quality in the United States.

Purpose of the Act

The purpose of the Clean Vessel Act (Act) Pub. L. 102–587, subtitle F)" is to provide funds to States for the construction, renovation, operation, and maintenance of pumpout stations and dump stations."

Purpose of the Technical Guidelines

The purpose of these guidelines is to provide States with technical information on adequacy of and appropriate types and location of pumpout stations and dump stations, disposal of sewage from these facilities, and waters most likely to be affected by the discharge of sewage from vessels. They also provide information to the States in completing the surveys, developing plans, and developing an education/information program. The guidelines will let States know what options are available and provide them with basic information upon which to base their choices. Environmental Protection Agency (EPA) regional offices, regulatory agencies, equipment suppliers and marina operators are another valuable source of information. The guidelines, however, are not to be used as a design manual or a substitute for the preparation of a design for a specific facility.

Consultation

As required in section 5605 of the Act, the Secretary of the Interior (Interior) has consulted with the Administrator of the EPA, the Under Secretary of Commerce for Oceans and Atmosphere (NOAA), and the Commandant of the Coast Guard (USCG), in the development of these guidelines. In addition, Interior has consulted with coastal States, local municipalities, boat users, manufacturers of pumpout equipment, marina operators, conservation groups, and others in obtaining information necessary to develop these guidelines. Three scoping meetings were held in January 1993, with various constituents. A scoping document was sent to nearly 100 people, and 45 comment letters were received. Draft guidelines were published in the **Federal Register** June 17, 1993, Vol. 58, No. 115, pages 33447–33457, and comment letters were received. EPA, NOAA, and USCG assisted in the review of these comments and finalization of these guidelines.

Relationship to the Grant Process

The technical guidelines are interim guidelines that will be later codified. They should be used by coastal States in conducting surveys, developing plans and education/information programs, and constructing pumpout/dump stations. However, grant guidelines will be needed for States to properly apply for funds under this grant program. The grant guidelines will provide criteria for the Fish and Wildlife Service (Service) to use in prioritizing grant proposals for funding. Such information as priorities, national pumpout symbols, other signs, fee restrictions, and monitoring success of projects, will be placed in the grant guidelines. Grant guidelines are being developed separately, and were published in the **Federal Register** July 8, 1993, Vol. 58, No. 129, pages 36619–36623. Funds are made available through a competitive process to coastal States to complete the surveys and develop plans, and, for all States, to apply for construction grants and education funds.

Statement of Effects

These guidelines have been reviewed under EO 12866. The guidelines do not involve "taking" as described in Executive Order 12630. The guidelines allow eligible States to make decisions regarding the development and submission of proposed grants for surveys, plans, construction/renovation and education. Therefore, they are consistent with Executive Order 12612 on Federalism. The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) The effects of these guidelines occur to agencies in the States, Puerto Rico, Guam, the Virgin Islands, American Samoa, the District of Columbia and the Northern Mariana Islands. Some small entities, mainly marina operators, may be the recipient of grants.

Summary of Comments and Recommendations

In the June 17, 1993, Notice of Public Review of Technical Guidelines, all interested parties were requested to submit comments that might contribute to the development of a final rule for a 45 day period ending August 2, 1993. Appropriate State and Federal agencies, local governments, boaters and boating organizations, marina owners/operators, marine equipment manufacturers and retailers, conservation organizations, and other interested parties were contacted and requested to comment.

A total of 8 written comment letters on the proposed guidelines were received by the Service, 4 from State agencies, 1 from a boating organization, 1 from a marina organization, 1 from a conservation organization, and 1 from a marine equipment manufacturer. All comment letters made suggestions to clarify and recommendations to modify some of the language and guidance. One verbal comment suggesting clarification was recorded from a State official. In addition to the comments received, four changes were made. The first change is in the Backgrounds. Definitions were relocated to the Technical Guidelines portion, just ahead of section 1. The second change is in the Technical Guidelines portion, section 2., first paragraph, and the Technical Guidelines portion, section 4., first paragraph, third sentence. Surveys and Plans should be submitted to the appropriate Regional Office. Addresses are provided. The third change, Technical Guidelines, section 2., is an addition to the second paragraph, first sentence, to indicate that all marinas should be surveyed. The fourth change is an addition of two paragraphs in the Information Packet, section 6., Off-Site Treatment, between the first and second paragraphs. These two paragraphs were inadvertently left out of the draft guidelines.

A total of 44 issues were identified by the commenters. The Service considered all suggestions and recommendations. This final guideline revises the proposed guidelines based on the issues raised by the commenters and makes other changes to clarify the requirements in the proposed guidelines. Those comments adopted are included in the final guidelines in the appropriate Sections. The following is a discussion of the issues raised by the commenters, the Service's responses to those issues, and a summary of changes made to the proposed guidelines.

Issue 1. Raritan Engineering Co., Inc.: Background, Findings, Raritan

Engineering said the word "may be" does not correspond to the wording in the Act, which states that "sewage discharged * * * is a substantial contributor * * *."

Response: The words "may be" have been deleted, and the word "is" has been substituted.

Issue 2. International Marina Institute (IMI): Other issues, Technical Guidelines, first paragraph, first sentence: The IMI states that the program should be handled by State administrators who know, and are known by, the marina industry. Inappropriate State program managers may not work as aggressively or successfully to facilitate pumpout installations. According to the IMI, some of the official State contacts have little or nothing to do with marinas or boat sewage controls. These contracts must move beyond traditional turf and foster inter- and intra-agency cooperation, planning and management.

Response: The Service agrees that the State should select the most appropriate State administrators to ensure the highest interest in the program, and encourages them to do so. The Service has been working closely with each State administrator identified. However, the actual selection process, according to statute, is up to the Governor of each State.

Issue 3. International Marina Institute (IMI): Technical Guidelines, first paragraph, second sentence: The IMI states that, unless the prohibition by a number of State laws to grant funds to private marinas is overcome, the intent of Congress will not be achieved. Guidelines need to be strengthened requiring grants be available to private facilities as well. The IMI said that States must identify restrictions on giving grants to private marinas in their application and what will be done to overcome this problem. States must explain in their plan how they will seek private applications and what proportion of the slip/mooring capacity is in public vs. private marinas. The IMI states that the Service should caution that inability of any State to give grants to private marinas will significantly lower that State's priority for funds. Funds should go to public and private marinas in approximate ratio to the public/private ratio in each State. Should the private marinas choose to not apply for grants during the first four years, then the IMI states that the funds should be released for use by the public sector in the fifth year of the program. Similarly, in the Information Packet, section 8. Other Information That is Considered: The IMI states that this Section should include language that such States with legal roadblocks to this public/private partnership must be required, as a condition of receiving any program funds, to change their law, and/or seek legal ways to bypass the serious impediment. IMI is very worried about this issue, and asks the Service to take affirmative action to keep private business a full partner in this program.

Response: The Service agrees that it is very important for States to overcome any prohibition of States to fund private marinas, and has added language in the Technical Guidelines portion, first paragraph, fourth sentence, and in the Technical Guidelines portion, section 4. Plans, (4)(e). States are already required to identify any restrictions to funding private marinas in the technical guidelines portion, section 4. Plans, (4)(e). The priority system identified in the final grant guidelines gives higher priority to those projects with public/private partnerships. Regarding the comment that funds should go to public and private marinas in approximate ratio to the public/private ratio and the comment that funds be released to the public sector in the fifth year if private marinas do not apply, priority will be given by the Service to those facilities that solve resource problems identified in the State's Plan rather than public/private ratios, which may not match resource problems. Regarding the suggestion that States with legal roadblocks to funding private marinas should be required to change their laws before funds will be granted to them, the Service has no legal authority to require States to change their laws.

Issue 4. Center for Marine Conservation and States Organization of Boating Access, Technical Guidelines, first paragraph, second and third sentences, "Both public and private marinas are eligible to participate in this program and should conform to these technical guidelines. Other marinas would not have to conform.": Both groups asked what other types of marinas there are other than public and private?

Response: This statement has been corrected to read that public and private marinas that participate must conform to these guidelines. Marinas that do not participate do not have to conform.

Issue 5. Center for Marine Conservation (Center): Technical Guidelines, Definitions (4) Waste reception facility: In the Center's work with vessel-generated garbage and the Marine Plastic Pollution Research and Control Act, "reception facility" refers to garbage cans, dumpsters, and recycling containers at ports and marinas. "Adequate reception facilities" are required under MPPRCA, and are referred to quite often. The Center wants to make sure that the phrase "waste reception facilities" referred to in the Clean Vessel Act guidelines is not going to confuse boaters or marina operators who are also exposed to provisions of the garbage laws dealing with garbage reception facilities. The Center suggests using another term, such as "portable toilet dump station" or "sewage reception facility".

Response: The Service agrees and has changed the term to agree with the term used in the grant guidelines: Dump stations.

Issue 6. Oregon State Marine Board (Marine Board): Technical Guidelines, Definitions (4) Dump Station: The Marine Board states that floating restrooms should be eligible for federal aid. They suggest that they are an eligible "dump station" which meets the intent of the Act to reduce vessel sewage pollution. Although landside restrooms should be ineligible, floating restrooms are not upland facilities and are used solely by boaters as dump stations. The Marine Board states that floating restrooms provide the only means to reasonably accommodate human waste from boaters using smaller recreational watercraft 12–18 ft. that do not carry portable toilets or do not have holding tanks.

Response: The Service agrees, and has added language in the guidelines to incorporate this suggestion, provided the facility is in the water, not connected to the shore.

Issue 7. International Marina Institute (IMI): Technical Guidelines, Definitions, (9) Coastal zone: the IMI suggests Printing out the full definition for coastal zone as given in the CZM Act of 1972 under Definitions.

Response: The Service agrees, and has printed it in full in the final guidelines.

Issue 8. International Marina Institute (IMI): Technical Guidelines, section 2. Surveys, Facility Survey, second paragraph, first sentence: The IMI states that survey of marinas for pumpout stations/dump stations should indicate whether the facility is public or private.

Response: The Service agrees and has added this survey question to the text.

Issue 9. Michigan Department of Natural Resources (Michigan DNR): Technical Guidelines, section 2. Surveys, second paragraph, first sentence, discussion of survey by specific coordinates: The Michigan DNR states that the Clean Vessel Act does not require the States to identify marinas by North American Datum Standard, nautical charts, etc. According to the law, section 5603 entitled "Charts (1) In General—the Under Secretary of Commerce for Oceans and Atmosphere

shall indicate, on charts published by the National Oceanic and Atmospheric Administration (NOAA) for the use of operators of recreational vessels, the locations of pumpout stations and dump stations." The Michigan DNR asks that this portion of the technical guidelines be taken out and be replaced by the specifications of the Act.

Response: The Service agrees and has rephrased this portion to agree with the Act. The Service suggests that obtaining specific coordinates for marinas may be helpful to determine location of marinas for development of plans.

Issue 10. International Marina Institute (IMI): Technical Guidelines, section 2. Boat Survey, third paragraph: The IMI states that most States do not have the ability to quickly determine which boats have toilets and what type MSD they are. The IMI states that the Service should request that the USCG require States to ask all boat owners if they have a MSD and what type, and include the data in their annual boating statistics reports. According to the IMI, States should list MSD use as part of their annual reports to the USCG and the USCG needs to correlate its own Federal documentation program (assume all documented vessels have toilets).

Response: The Service recognizes that this information may not be readily available, and has advised States in section 2. of the technical guidelines and Information Packet portion of these guidelines that reasonable estimates are acceptable. The Packet also advises States of alternative means of obtaining this information. The USCG would require legislative authority to require States to ask all boat owners if they have a MSD and include the data in their annual boating statistics report, since the purpose of the report is now boat safety. Regarding the comment that the USCG correlate its own Federal documentation, this would not result in obtaining a sufficient number of boats for the States to adequately complete their survey.

Issue 11. Oregon State Marine Board (Marine Board): Technical Guidelines, section 3., first paragraph, first sentence: The Marine Board requests the Service to add "/or". The sentence should read: "As a general guide, at least one pumpout station and '/or' dump station should be provided for every 300 to 600 boats (not considering length or toilets)." In Oregon, according to the Marine Board, the number of boats under 26 ft. is over 90% of the registered boats in the State. Therefore, the requirement of one pumpout as the sole means for vessel waste reception and not including dump stations or other means of waste disposal for every 300 to 600 boats, regardless of boat length, would be impracticable to meet in Oregon, according to the Marine Board.

Response: This formula is guidance only, not a requirement. States should use their judgment as to when this formula should be modified, or even used.

Issue 12. International Marina Institute (IMI): Technical Guidelines, section 3. Adequate Pumpouts, first paragraph, first sentence: According to the IMI, this section must be directly linked to the number and location of boat toilets. Otherwise, States may count all boats whether or not capable of holding a MSD toilet. Boat count guide for the number of pumpout stations now includes all canoes, dinghies, rowboats, etc., and all other boats without toilets, which distorts boat toilet use patterns and location of pumpout needs. The IMI states that the word "not" in the following sentence should be deleted: "As a general guide, . . . 300 to 600 boats (not considering length or toilets)." The IMI requests adding the following: "The number and location of pumpouts be based on counts of boats with toilets and/or boats 22 feet in length and larger capable of having installed MSDs."

Response: The Service agrees that canoes, dinghies, etc., should not be included in the assessment of need, and has added language to that effect. The amended method now suggested in the guidelines is a general guide only, and can be further amended by adding the language suggested by the commenter, or by any of the factors listed in that Section.

Issue 13. Oregon State Marine Board (Marine Board): Technical Guidelines, Section 3., first paragraph, second sentence: The Marine Board states that there needs to be a better breakdown of the requirement for vessel dump stations and pumpouts for marinas accommodating over 50 boats. The Marine Board suggests the following language: "Marina with 50 slips or more that are capable of mooring 26 ft. + boats install at least one pumpout station. Marinas with 50 slips or more that are capable of mooring 16–26 ft. boats install at least one pumpout or portable toilet dump station."

Response: This Section has been rewritten to incorporate the suggested language. Because the guideline is not a requirement, but guidance, which States should use or modify as needed, additional language has been added which clarifies this point. States should assess each particular situation to determine the pumpout stations and dump stations needed.

Issue 14. Oregon State Marine Board (Marine Board): Technical Guidelines, Section 3., second paragraph: The Marine Board requests adding the following to better clarify where to install waste reception facilities: "Waste reception facilities should be sited in conjunction with marinas, parking lot harbor or where vessels congregate or are used, such as transient harbors or launching ramps."

Response: The statement has been amended to better clarify where dump stations should be installed.

Issue 15. International Marina Institute (IMI): Technical Guidelines, section 4. (3) Expected Results or Benefits: To the end of that sentence the IMI requests adding "* * * and how results will be monitored and benefits will be measured."

Response: Although States have the option to monitor and measure benefits, and are encouraged to do so when necessary, requiring this step of the States goes beyond the intent of the Act and conveys an unnecessary burden to the States. There may be so many other factors, such as municipal sources of pollution, that it may be extremely difficult and expensive to measure the specific benefit of installing pumpouts. Pumpouts should be viewed as a Best Management Practice which, when installed, will help clean up the water by preventing one source of pollution.

Issue 16. International Marina Institute (IMI): Technical Guidelines, section 4. (4) (c), Approach/Strategy: The IMI suggests mentioning here or in section 8. that grants should not go for endless repairs of existing pumpouts which have proven to be located in inappropriate sites, under failed government control, or which has a history of unreasonably low use and performance. The IMI states that the State strategy must address the question of whether or not an existing pumpout station is worth upgrading, and how demonstrated problem pumpout services will be upgraded or eliminated.

Response: The Service agrees and has added language in section 4. (4) (c).

Issue 17. International Marina Institute (IMI): Technical Guidelines, section 4. (4) (d): To the list following "How States will ensure that * * *" the IMI requests adding "(iii) facilitate speedy permits for pumpout station construction or improvement." The IMI states that Federal and State agencies must facilitate, speed, and make less expensive the process of granting permits for pumpout stations. The IMI requests that the guidelines ask States to tell the Service how the permit process

will be expedited, and to document the average time it takes for a pumpout permit. The IMI believes the Service should give high priority to those States who speed the process.

Response: The Service encourages States to expedite the permit processes required by State and local governments, so that facilities will be installed as soon as possible. However, requiring the requested information is beyond the scope of the Act and the authority of the Service.

Issue 18. International Marina Institute (IMI): Technical Guidelines, section 4. (4) Approach: The IMI requests adding "(i) Describe methods to be used to measure program costs and benefits to the boating public; and (j) How the State will evaluate and monitor the program effectiveness and make changes to approaches as weaknesses and/or unanticipated opportunities become apparent." The IMI believes that program evaluation needs to be given greater emphasis, to assure quality products.

Response: Section "(i) Describe methods to measure costs and benefits * * *" is beyond the scope of the Act. Section (j) is included in the grant guidelines, § 85.42(c), which requires States to ensure that facilities are operated and maintained and used for the stated grant purpose. A paragraph at the end of section 3. of the Technical Guidelines has been added to give program evaluation greater emphasis.

Issue 19. Center for marine Conservation (Center): Technical Guidelines, section 5. Education/ Information: The Center considers education as a critical component in the ability of the Clean Vessel Act to keep boater's sewage out of the water. They are concerned that all education efforts will be done State by State, and that there is no plan for national development of model education programs or materials which can then be used by the States. With the Center's marine debris work, they have seen the effective use of a national information office, and have seen that it minimizes duplication at the State level, and enhances coordination and communication between educators. The Center believes something similar for the Clean Vessel Act would enhance the ability of the Act and reduce costly duplication.

Response: The Service is planning a workshop with Federal, State and local agencies, the marine industry, boaters, conservation organizations, and interested parties, early in 1994, to identify gaps in the education program, and responsibilities for filling those gaps. The Service encourages any organization interested to attend. Notice of the date, time, and place will be published in the **Federal Register**. In addition, the EPA is developing two reports on the subject, both still in draft: (1) Framework for a Public Outreach Strategy on Sewage Discharges from Boats and Marinas; and, (2) INTERIM REPORT: Summary of Federal Programs and Tools; Summary of State and Local Programs and Tools; Identification of Missing and Needed Information for Guidance Development on Boat and Marina Pollution Control; List of Contacts.

Issue 20. Oregon State Marine Board (Marine Board): Technical Guidelines, section 6. (1) (a) and (b), discharge of wastewater to treatment facilities and transport by licensed septage haulers: The Marine Board has found that time and again with Oregon there has been non-acceptance of vessel wastes by many small municipal wastewater treatment facilities. Therefore, the Marine Board recommends that USFWS or others conduct a detailed study on the effects of vessel waste treated by municipal wastewater systems and provide States technical guidance on this matter.

Response: When developing the State Plan, States are asked to identify any problems with municipal treatment plant operators accepting marine sewage. When the extent of the problem is ascertained, the Service will then consider solutions to the problem. At this time, a number of studies have been done to show that vessel sewage should not be a problem to waste treatment plants. Education may be the best tool for overcoming this perceived problem.

Issue 21. International Marine Institute (IMI): Technical Guidelines, section 7., third paragraph, after first sentence: The IMI requests adding a sentence: "When pumpouts are installed on or near boat fueling areas, explosion proof motors and switches must be used."

Response: The Service agrees and has added language to that effect.

Issue 22. International Marina Institute (IMI): Information Packet, section 1. (5) Nursery Areas: The IMI states that this section is misleading, unsupported, and subject to regulatory abuse, and should be deleted. New York State Department of Environmental Conservation (DEC): The DEC requests expanding "Nursery areas of indigenous aquatic life" in section 1., item (5) to make reference to State and Federally designated significant habitats such as are designated in Coastal Zone programs.

Response: The Service agrees that the definition is too broad and has deleted it, substituting the definition suggested by New York State DEC in the Information Packet and section 1. (5) of the technical guidelines.

Issue 23. International Marina Institute (IMI): Information Packet, section 1., Discussion of the effects of vessel sewage on these waters, first paragraph, third sentence: The IMI requests changing the word from "several" to "many" in the sentence "While vessel sewage discharges represent only one of 'several' sources * * *"

Response: The Service agrees and has made the change.

Issue 24. International Marina Institute (IMI): Information Packet, Section 1., Discussion of the effects of vessel sewage * * * second paragraph, second sentence: The IMI requests adding the word "uncooked" to text: "Humans are put at risk by eating 'uncooked' contaminated shellfish. * * *" According to the IMI, cooking kills the pathogens.

Response: Although the discussion is primarily about pathogens, cooking does not destroy all forms of contaminants. Therefore, the conservative approach is taken.

Issue 25. International Marina Institute (IMI): Information Packet, Section 1., Discussion of the effects of vessel sewage * * * second paragraph, last sentence: The IMI requests deleting "and swimming beaches" from text. According to the IMI, the statement is not true for most beaches.

Response: The Service agrees that the statement is not true for most beaches, and has modified the statement accordingly.

Issue 26. International Marina Institute (IMI): Information Packet, Section 1., Discussion of the effects of vessel sewage * * * third paragraph, last 2 sentences: The IMI requests deleting the last two sentences: "Sewage discharged from holding tanks will thus increase the biological oxygen demand (BOD) in the vicinity of boats. When this occurs in poorly flushed waterbodies, the dissolved oxygen concentration of the water may decrease (Milliken and Lee, 1990." According to the IMI, this is misleading and faulty logic. If kept, the IMI requests fully qualifying this statement as to the number of holding tanks which must be dumped to make it significant.

Response: The sentences are general, informational statements. The statements have been qualified to ensure that they are not misleading.

Issue 27. North Carolina Department of Environment, Health & Natural Resources (DEHNR): Information Packet, section 1., last paragraph, first, fourth

and fifth sentences, and Information Packet, Section 6., second paragraph, last sentence: It is the DEHNR's understanding that zinc sulphate was voluntarily taken off the market 10 years ago when its degrading effects on waste treatment were discovered. According to the DEHNR, plant operators and regulators should not be given the implication that heavy metals or other severe, lingering toxics can be expected. The holding tank chemicals in use today are generally biodegradable and if even marginally diluted, have little effect on treatment systems. The DEHNR requests that the Information Packet be written to describe why the waste can be treated in existing systems rather than helping to panic regulatory agencies that are not familiar with the research, or the rate and volumes of present demands.

Response: Zinc sulphate has been deleted from the discussion, and the discussion modified in both places to indicate the lack of real problems noted from use of these chemicals.

Issue 28. International Marina Institute (IMI): The IMI requests that the Service credit IMI for its contributions in the guidelines. Information Packet, section 3., first and second paragraphs: The IMI requests the following be appended to these paragraphs: "(Ross & Amaral, 1992)", to give credit for this text to the IMI survey of New England pumpout stations mentioned previously. Information Packet, section 7., third paragraph, "Equipment failure * * * ": The IMI requests the following be appended to this paragraph: "(Ross & Amaral, 1992)". Also, Information Packet, section 8., first paragraph, Public/private partnerships: IMI totally agrees with the importance of private involvement, and requests that the record show that the 80% is based on the 1986–87 National Boating Facilities Survey IMI/URI conducted for NMMA.

Response: Credits have been added for each of the sources.

Issue 29. International Marina Institute (IMI): Information Packet, section 3., fourth paragraph, next to last sentence: The IMI requests deleting the sentence "Some States require installation of pumpouts for all new marinas.", because it may encourage regulators to mandate pumpouts everywhere without consideration of other factors, or add " * * * regardless of any measured need or lack of potential use." at the end of that sentence.

Response: The Service agrees, and has deleted the sentence.

Issue 30. International Marina Institute (IMI): Information Packet, section 3. (2): The IMI requests changing the "45%" peak occupancy rate to "40%" in the sentence "It is assumed every boat which is occupied * * * the occupancy rate during peak periods is 45%." Also, Information Packet, section 3. (3) Calculation for Estimating Need for Dump Stations, and, Calculation for Estimating Need for Pumpout Stations: The IMI recommends changing the peak occupancy rate from "45%" to "40%", to match the sentence above in section 3. (2). According to the IMI, the 45% comes from the 1989 IMI national auto parking and boat use study of 142 public and private marinas in 24 States. The highest use day (July 4th weekend) was 46% of all boats in use, but quickly dropped to 33% on non-holiday weekends. (Reference: Ross, N. Auto Parking in Marinas. International Marina Institute, Wickford, RI. 1989. 13 pp. According to the IMI, holding tanks are often pumped during the week. National engineering standards for parking lot size for theaters, restaurants, and shopping malls call for using the 5th highest use day. The IMI states that it would be more reasonable to use the 33% to be high weekend use rate. The IMI suggests using the difference between the 46% and 33% or 40%, which is the most reasonable national number in the formula calculations.

Response: The Service agrees and has made the changes in the sentence and in both calculation formulas, giving credit to the source.

Issue 31. International Marina Institute (IMI): Information Packet, section 3. (3): Hours of operation: The IMI requests adding "peak boating season" to "* * * assumes facilities will be in operation for twelve hours per day during 'peak boating season' weekends and * * *".

Response: The statement has been added to the sentence.

Issue 32. Massachusetts Department of Fish, Wildlife and Environmental Law Enforcement (DEWELE): Information Packet, section 3., Calculation for Estimating Need for Pumpout Stations: The DFWELE suggests adding open brackets and open parentheses before "No. of Boats 26'–40'", close parentheses after "No. With Holding Tanks (50%)", and close brackets after "No. of Boats 40'+", to clarify the calculation.

Response: The Service agrees and has added the brackets and parentheses.

Issue 33. North Carolina Department of Environment, Health & Natural Resources: Information Packet, section 6.: The DEHNR is concerned with the discussion of waste treatment alternatives. According to the DEHNR, relatively few marinas are in a stage of construction where major waste treatment system modifications are readily feasible. It is likely, according to the DEHNR, that a marina waste disposal system is already in place. The best use of the grants, according to the DEHNR, will be to install as many dockside pumpout units as possible. The DEHNR states that, under certain circumstances, funding new or replacement waste treatment systems may be appropriate. But in most cases, research indicates that existing systems should be able to handle anticipated loads.

Response: The Service agrees with this assessment, and encourages States to install as many pumpout stations and dump stations as are needed as the highest priority. The discussion of waste treatment alternatives is informational, and not meant to imply a priority for new or upgraded waste treatment systems.

Issue 34. International Marina Institute (IMI): Information Packet, section 6., Vessel Sewage Characterization, second paragraph, first sentence, Effects of holdings tank additives: The IMI asks the following: What are the harmful additives? What chemicals should be regulated? Where is the list of products which can be used? Is there a government sanctioned list? Who is doing testing on products for holding tanks? If no government list exists, can the Service encourage the States to regulate them? If the list exists, publish it.

Response: This paragraph is an information paragraph which characterizes chemical holding tank additives. No statement is made that they are harmful or that they should be regulated. The Service has no list of products which can be used, and there is no government sanctioned list.

Issue 35. North Carolina Department of Environment, Health & Natural Resources (DEHNR): Information Packet, section 6. On-Site Treatment: According to the DEHNR, North Carolina law does not allow holding tanks as an acceptable sewage treatment and disposal system.

Response: A statement has been added to this section cautioning that marinas should consult State law before installing any of these measures.

Issue 36. Center for Marine Conservation (Center): Information Packet, section 7., first paragraph, sixth sentence: "Stationary or portable dockside pumps cost in the range of $2,000 to $10,000, and typical complete installations may be as high as $20,000." The Center believes these numbers sound high, and requests that the Service clarify what is covered here, and separate out costs for live aboard permanent installations.

Response: This information was obtained from the marine industry. Average costs, including sewage connection and other accessories, for the first application period, were close to $20,000 per unit. Some costs were in the range of $60,000.

Issue 37. International Marina Institute (IMI): Information Packet, section 7. (1) The IMI states that stationary units can also be discharged into septic systems if the State allows. According to the IMI, their advantages also include "speed of use".

Response: Although it may be true that the unit contents may be discharged into septic systems, this type of connection is not encouraged. Speed of use has been added as an advantage.

Issue 38: International Marina Institute (IMI): Information Packet, section 7. (2) Portable units on wheels, fourth sentence: While moving about the marina requires more time, the IMI believes that also is an advantage for pumping out boats during slow weekdays, especially after a busy weekend.

Response: This advantage has been added.

Issue 39: International Marina Institute (IMI): Information Packet, section 7. (3) Portable units on a vessel, last sentence. Range of operation is not a problem, according to the IMI, since one vessel can service an entire harbor of several marinas, etc.

Response: The Service agrees. This statement has been deleted.

Issue 40: International Marina Institute (IMI): Information Packet, section 7. (4) Remote operated multi-station systems, last sentence: According to the IMI, the last sentence talks about he problems of winter freezing. Freezing affects every pumpout in northern climates, but is less of a problem for multi-station systems because they generally depend on a vacuum tank system which keeps the lines free of all standing water. The IMI recommends dropping the issue, or making a general statement such as: "All pumpout systems in northern States subject to freezing may need winterization.".

Response: The Service agrees. The statement has been deleted.

Issue 41: International Marina Institute (IMI): Information Packet, section 7., next to last paragraph, fourth sentence, under Other Factors to Consider for Pumpout Stations, "* * * and disinfect suction connection.": The IMI states that this sounds like a good idea, but how do you do it? Would not the disinfectant used, e.g., chlorine, pose a more significant threat to aquatic life than sewage bacteria inside the hose connector? Recommend dropping the words.

Response: The Service agrees. The statement has been deleted, and a suggestion added to use a dedicated system for flushing and rinsing hoses.

Issue 42: International Marina Institute (IMI): Information Packet, section 7., last paragraph, third sentence under Other Factors to Consider for Pumpout Stations: The IMI states that the statements "EPA has found * * *" the need for "maintenance contracts * * *" and "dedicated funds * * *", are misquoted from the final Nonpoint Pollution Marinas Chapter 5, boat sewage section pp 5–42 to 5–46. The IMI states that the statements are based on a preliminary practices draft which was discarded in the final text. If maintenance contracts were necessary anywhere, according to the IMI, they would be needed at the public marinas do not need such government required contracts or dedicated funds since they will fix the problem themselves or hire someone. The IMI recommends deleting the entire last sentence beginning "EPA has found * * *", or specify that this "only applies to public marinas which are unable to do their own maintenance.".

Response: The reference to EPA has been dropped. The paragraph has been kept as a suggestion.

Issue 43: International Marina Institute (IMI): Information Packet, section 8., fifth paragraph, Rental Contracts: The IMI recommends adding "waters" to the text of "(1) prohibit boat sewage discharge into the marina 'waters' to keep the water clean." to otherwise allow discharge into a pumpout or sanitary waste system.

Response: The word has been added.

Issue 44: International Marina Institute (IMI): Information Packet, section 8., fifth paragraph, Rental Contracts: The IMI is not sure marinas can legally force boat owners to covert to holding tanks (2) without new legislation since Federal law allows use of all three types of MSDs. The IMI does not feel the Service can issue (2) in the Guideline at this time without a change in Federal law.

Response: The Service agrees. The statement has been deleted.

Technical Guidelines

The Fish and Wildlife Service will administer the Clean Vessel Act grant program through State agencies only. Both public and private marinas are eligible to participate in this program and should conform to these technical guidelines if they do participate. Marinas that do not participate in this program would not have to conform to these guidelines. The Service believes that public/private partnerships are a very important part of the success of this program, and will give higher priority to those projects that provide such partnership. Inability of a State to give grants to private marinas will result in a lowering of that State's priority for funds. Those States that have legal/administrative roadblocks are strongly encouraged to overcome them through changes in their law or procedures.

These technical guidelines should be followed when doing surveys, developing a plan and education program, and constructing pumpout stations and dump stations. Technical guidelines are presented here by section. At the end of these guidelines, an information packet is presented, which contains a general discussion of each section and provides greater detail.

Definitions

For the purposes of these technical guidelines the term: (1) *Type III marine sanitation device (holding tank)* means any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge human body wastes; (2) *pumpout station* means a facility that pumps or receives human body wastes out of Type III marine sanitation devices installed on board vessels; (3) *recreational vessel* means a vessel (a) manufactured for operation, or operated, primarily for pleasure; or (b) leased, rented, or chartered to another for the latter's pleasure; (4) *dump station* means an upland or floating waste reception facility specifically designed to receive wastes from portable toilets carried on vessels, or floating restrooms in the water, not connected to land or structures connected to the land, used solely by boaters, and does not include upland restroom facilities; (5) *marina* means a facility with ten or more wet slips and/or dry land storage; (6) *Parking lot harbor* means a harbor which is home port to many boats kept on swing moorings or in marina docks. Most of the time, most of the boats are unoccupied and unused; (7) *Transient harbor* means "destination" harbor where boaters go during day trips or berth overnight; (8) *Portable toilet* means toilets that are not installed toilets. They are designed to be removed from a vessel and their contents emptied into shoreside receptacles; (9) *Coastal zone* has the same meaning that term has in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453 (1). Section 1453 defines "coastal zone" as follows: "The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands

(including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extend necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents."

Section 1. Waters Most Likely To Be Affected by the Discharge of Sewage From Vessels

Guidelines for States to use in identifying waters most likely to be affected by the discharge of sewage from vessels are those waters frequented by large numbers of boaters and include: (1) Sheltered waters that are generally poorly flushed systems; (2) Waters identified to be of National Significance; (3) Waters of significant recreational value; (4) Waters supporting designated shellfish harvest areas; (5) State and federally designated Nursery areas of indigenous aquatic life; (6) Waters designated by the EPA as "No Discharge Areas" under section 312(f)(3) and (4) (A) & (B) of the Clean water Act, and (7) Waters that do not meet State designated usage.

Section 2. Surveys of Pumpout Stations and Dump Stations

Only coastal States are required to do a survey. Coastal States should submit surveys to the Federal Air official at the appropriate Fish and Wildlife Service Regional Office, as follows:

(1) Region 1 coastal States include California, Commonwealth of the Northern Mariana Islands, Guam, Hawaii, Oregon, and Washington: Deputy Assistant Regional Director, Division of Federal Aid, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 NE 11th Avenue, Portland, Oregon 97232–4181, (503) 231–6128.

(2) Region 2 coastal State includes Texas: Deputy Assistant Regional Director, Division of Federal Aid, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue, SW., Albuquerque, New Mexico 87103, (505) 766–2095.

(3) Region 3 coastal States include Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin: Deputy Assistant Regional Director, Division of Federal Aid, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, (612) 725–3596.

(4) Region 4 coastal States include Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, and the Virgin Islands: Deputy Assistant Regional Director, Division of Federal Aid, U.S. Fish and Wildlife Service, 1875 Century Boulevard, suite 324, Atlanta, Georgia 30345, 404/679–4159.

(5) Region 5 coastal States include Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia: Deputy Assistant Regional Director, Division of Federal Aid, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589, (413) 253–8501.

Pumpout station/dump station survey: All marinas, moorages, docks, etc., should be surveyed. The survey should include whether the marina has pumpout stations, dump stations, or both; how many pumpout and dump stations; which ones are operational; and, the specific coordinates of each operational pumpout and dump station. For pumpout and dump stations not located in the above marinas, moorages, etc., such as at ramps, the specific coordinates should be obtained for these facilities also. Specific coordinates, i.e., latitude and longitude, should be reported in North American Datum 1983 (NAD 83) standard. Other alternatives include (a) State Plane Coordinate Values, and (b) A portion of a NOAA nautical chart identified by chart number, edition, and edition date that marks clearly the pumpout station/dump station. Specific coordinates for all pumpout and dump stations should be submitted to the appropriate Regional Office of the Fish and Wildlife Service for inclusion on NOAA charts. Suggested survey questions include the following for each facility: (1) Name and address of marina, moorage, dock, etc.; (2) whether the marina is public or private; (3) telephone number; (4) location of marina, etc., by county, water body and specific coordinates; (5) whether the marina has pumpout stations, dump stations, or both; (6) how many pumpout and dump stations; and, (7) whether the pumpout and dump stations are operational.

Boat survey: The survey should include the following: (1) Total number of boats by water body and county; (2) How many boats have Type III MSD holding tanks; (3) How many boats have portable toilets.

A complete survey of all boaters is not necessary. States should obtain only as much information as is necessary to determine, within reasonable confidence limits, numbers of boats, how many boats have Type III MSD holding tanks or portable toilets, and where boaters are most likely to congregate by water body and county. Sample surveys are acceptable. Recent surveys are acceptable if they answer all the questions needed.

Section 3. What Constitutes Adequate and Reasonably Available Pumpout Stations and Dump Stations in Boating Areas

As a general guide, at least one pumpout station and dump station should be provided for every 300 to 600 boats over 16 feet length overall. This is not a requirement, but guidance only, and should be modified depending on the situation. For instance, if most boats in an area are under 26 feet, many more dump stations would be required than pumpout stations. Another question is the minimum number of boats that should have pumpout stations and dump stations. Again, there is no one answer. it is suggested that marinas with 50 slips or more that are capable of mooring 26 feet + boats have access to at least one pumpout station, and marinas with 50 slips or more that are capable of mooring 16–26 feet boats have access to at least one dump station. This does not mean that every marina with 50 + slips should have a pumpout station or dump station. Where marinas are adjacent (within two miles of each other), pumpout stations can be shared. Other factors should be considered, such as whether the marina is a parking lot or transient harbor, or the amount of fuel dock use. In determining the installation of any pumpout station or dump station, such factors as boat size, boating use patterns, coastal water characteristics, sensitive areas, flushing capacity, etc., should play a large role in establishing needs for facilities. Due to the variability in each State, States must have the flexibility to provide criteria that addresses their specific needs. See the discussion in the Information Packet, section 3, for alternative approaches to determining need.

Dump stations should be sited in conjunction with pumpout stations, but should also be located where there are no pumpout stations but where boats with portable toilets congregate or are used, such as launching ramps.

Program evaluation should be given great emphasis to assure quality products. States should evaluate and monitor the program effectiveness to determine that facilities are operated and maintained, and used for their intended purpose. Changes to approaches should be made as weaknesses and/or opportunities become apparent.

Section 4. Plans for Construction Pumpout Stations and Dump Stations

Only coastal States are required to develop a plan. Coastal States should work with the recreational marina industry and others in developing the plan. Coastal States should submit the plan to the appropriate Fish and Wildlife Service Regional Office, same address as in section 2 above. Following is an outline which should be used by States when developing the plan:

(1) *Need.* This section should establish the justification for the proposed work based on (a) the results of the surveys of existing pumpout stations and dump stations and the number of recreational vessels; (b) that part of the guidance relating to determining the adequacy and reasonable availability of pumpout stations and dump stations and, (c) that part of the guidance describing the waters most likely to be affected by the discharge of sewage from vessels.

(2) *Goals and objectives.* The purpose of the plan should be to ensure the availability of adequate and reasonably available pumpout stations and dump stations to the boating public throughout the coastal zone of a State.

(3) *Expected results or benefits.* This section should describe in general how water will be improved by making pumpout and dump stations available.

(4) *Approach.* In this section, describe the following: (a) How the plan addresses all coastal zone waters of the State, and gives priority to waters most likely affected; (b) How the plan complements plans of adjacent States for shared waters; (c) The strategy for locating and constructing, renovating and maintaining pumpout and dump stations. Address the question of whether or not an existing pumpout or dump station is worth upgrading, and how demonstrated problem facilities will be upgraded or eliminated. Include the general location and priority of projects; (d) How States will ensure that (i) waste will be disposed of properly, and (ii) that municipal waste treatment plants will accept waste; (e) What proportion of the slip/mooring capacity is in public vs. private marinas, how States will seek public/private partnerships for siting, constructing and operating pumpout stations and dump stations, any issues/problems, such as legislative/regulatory barriers, and what will be done to overcome these barriers; (f) Innovative techniques to increase the availability and use of pumpout stations/dump stations; (g) Approaches to educate and inform the public and the boating industry on the sue of, and need for, disposal of vessel waste; and, (h) Total estimated cost of the Statewide plan.

Section 5. Education/Information

Guidelines for States to consider when developing an education/information plan include:

(1) *Audience:* Consider six audiences when developing your education/information program regarding vessel sewage disposal, handling, and treatment, as follows: (a) Boat owners and operators; (b) Marina owners and operators; (c) Sewage treatment plan owners and operators; (d) Federal (where applicable), State and local governmental authorities and organizations; (e) Boating supply and retailers; (f) The general public.

(2) *Communication media:* There are a variety of media that States may use for disseminating this information. Common methods to consider are: brochures, workshops/symposiums, educational videos, TV/radio, signs, boat shows, etc. Innovative methods are encouraged.

(3) *Distribution:* States have options for distribution of educational information related to boating and pumpout issues. Options include magazines, radio public interest spots, environmental groups, association and federation newsletters, National Estuary Program forums, State and local education programs, local citizens groups, and student groups. New and innovative ways of educating the boating community and the general public are encouraged.

Section 6. Appropriate Methods for Disposal of Vessel Sewage From Pumpout Stations and Dump Stations

Disposal methods will vary among States depending on a number of factors, including: State and local sanitation codes; the number of recreational vessels and where the vessels are concentrated; the availability and geographic proximity of existing treatment facilities to boating centers; and hydrogeologic characteristics, including soil types and groundwater flows towards drinking water sources and these coastal waters. Depending on these factors, States may consider the following methods: (1) Off-site treatment: (a) Discharge to a public wastewater collection system and treatment facility; (b) discharge to a holding tank with removal and transport by a person licensed to haul septage waste to a municipal septage receiving/treatment facility; (2) On-site treatment at marinas: (a) Discharge to a package treatment plant; (b) discharge to a septic system.

Section 7. Types of Marine Boat Sewage Pumpout Stations and Dump Stations That May Be Appropriate for Construction, Renovation, Operation, or Maintenance, and Appropriate Location of the Stations and Facilities Within a Marina or Boatyard

Pumpout stations and dump stations should provide an efficient means of removing sewage from boats and a means of disposing of that sewage in a safe and sanitary manner. These facilities should include all the equipment, structures, and disposal facilities necessary to ultimately discharge or dispose of boat sewage in an efficient, safe and sanitary manner without causing an actual or potential public health hazard. Pumpout stations should include equipment for rinsing boat holding tanks. Pumpout stations and dump stations should be adequate to meet the peak use demand for such services. Facilities should be operated and maintained to provide adequate service, and to be maintained to function as intended.

Pumpout stations and dump stations should be reliable, corrosion resistant, easy to use, neat and tidy to clean and use, conveniently located, with low maintenance. Pumps should be specifically designed for handling sewage. Land-based restrooms are not an acceptable option for emptying portable toilets.

All pumps should be safe, functional and efficient. Motors and switches should be ignition protected. Pumps should be able to pump against the maximum head developed by elevation change and line losses. In addition, the suction connection to the boat should be a tight fit and adjustable by adapters to service boat discharge connections. Pumps should be able to transport flows out of the holding tank. Pumps exceeding 45 gallons per minute may cause tanks to collapse.

Factors in determining pumpout station holding tank capacity include boat size and use patterns. Sizing should be done on a case-by-case basis using documented demand, if possible. Holding tanks should be designed and installed to meet local regulations.

For all vessels manufactured after December 31, 1994, a standard deck fitting for removal of sewage should be

constructed to the "International standard ISO 4567 Shipbuilding—Yachets—Waste water fittings" for holding tanks, which is a female 38.1 mm (1½") pipe size with 11 threads per 25.4 mm (inch). These threads could utilize a quick-disconnect or cam lock fitting. For existing vessels, an adapter, such as a tapered cone, should be used for non-standard deck fittings. All pumpout connectors should fit the standard deck fitting.

For all vessels manufactured after December 31, 1994, because of possible confusion between waste, fuel and water deck fittings, the deck fittings should be identified with the words "WASTE", "GAS", "DIESEL", and "WATER", and color code the fittings with black caps for waste, red caps for gas and diesel, and blue caps for water.

The ultimate location for the station should be based on the unique conditions of the marina, boatyard, mooring field or other anchorage. Stationary pumpout stations should be located for the convenience of, and to encourage boaters to use the facility. Mobile pumpout stations should have reasonable access to boaters.

Section 8. Other Information (No Technical Guidelines)

Information Packet

This information packet is not technical guidelines. It has been recommended to provide additional information to States, and to marinas and others who participate in this program. The information packet presents general information on surveys, plans, education/information, pumpout facilities and other information helpful in promoting establishment of facilities. It provides a more detailed discussion of the technical guidelines, with examples and explanations. This information packet is also by Section, which corresponds to the sections in the technical guidelines.

Section 1. Waters Most Likely To Be Affected by the Discharge of Sewage From Vessels

The following coastal waters, including the Territorial Seas, estuaries, bays, and sounds, and then U.S. lakes and rivers as defined below, are considered waters most likely to be affected by the discharge of sewage from vessels. These definitions are not ranked in priority order.

(1) Sheltered waters that are generally poorly flushed systems.

(2) *Waters of National significance:* Waters identified by the Environmental Protection Agency under the National Estuary Program, waters identified by the NOAA under the Estuarine Reserve program, and Marine Sanctuaries program where appropriate.

(3) *Waters of significant recreational value:* A water body with unusual value as a resource for outdoor recreation activities, e.g., fishing, boating, canoeing, water skiing, swimming, scuba diving, or nature observation. The significance may be in the intensity of present usage, in an unusual quality of recreational experience, or in the potential for unusual future recreational use or experience.

(4) *Shellfish harvest waters:* Waters designated as shellfish producing and harvesting areas.

(5) *Nursery areas of indigenous aquatic life:* State and federally designated significant habitats such as are designated in Coastal Zone programs.

(6) Waters designated by the EPA as "No Discharge Areas" under Section 312(f)(3) and (4)(A) & (B) of the Clean Water Act.

(7) Waters that do not meet State designated usage.

Discussion of the Effects of Vessel Sewage on These Waters

Waters previously designated by the EPA under the Clean Water Act as "No Discharge Areas" are eligible for renovation, maintenance and further construction funds under this program. The discharge of sewage from boats may degrade water quality by (1) introducing microbial pathogens into the environment and (2) locally increasing biological oxygen demand (U.S. EPA, 1985). While vessel sewage discharges represent only one of many sources of point and non-point pollution, the number of boats using coastal waters has increased substantially during the past decade. The contribution of boat sewage to total pathogen loadings and local BOD has grown proportionately.

A potentially serious problem resulting from vessel sewage discharges is the introduction of disease-carrying microorganisms from fecal matter into the coastal aquatic environment. Humans are put at risk by eating contaminated shellfish and by swimming in contaminated waters. The major disease-carrying agents are bacteria and viruses, and the most common serious ailment is acute gastroenteritis. Other waterborne diseases include hepatitis, typhoid, and cholera (Milliken and Lee, 1990). The indicators used to detect sewage pollution are not the pathogens themselves, but, rather, coliform bacteria. These bacteria are always present in the human intestinal tract and are thus considered reliable indicators of the presence of human waste (U.S. EPA, 1985). Studies conducted in Puget Sound, Long Island Sound, Narragansett Bay, and Chesapeake Bay have demonstrated that boats can be a significant source of fecal coliform bacteria in coastal waters, particularly in areas with high boat densities and low hydrologic flushing (Milliken and Lee, 1990; JRB Associates, 1980). If coliform levels exceed allowable thresholds, shellfish beds and swimming beaches may be closed to minimize the threat of public health problems. In addition, shellfish beds and some swimming beaches in the immediate vicinity of marinas are often closed because of the potential of contamination from vessel sewage discharges.

These organic-rich wastes also have the potential to depress oxygen levels as they decay in the marine environment. Biological oxygen demand is a measure of the dissolved oxygen required to decompose the organic matter in the water by aerobic processes. When the loading of organic matter increases, the BOD increases, and there is a consequent reduction in the dissolved oxygen available for respiration by aquatic organisms (U.S. EPA, 1985). Although the volume of wastewater discharged from boats is relatively small, the organics in the wastewater are concentrated, and therefore the BOD (1700–3500 mg/l) is much higher than that of raw municipal sewage (110–400 mg/l) or treated municipal sewage (5–100 mg/l) (JRB Associates, 1981). Sewage discharged from holding tanks will thus increase the BOD in the vicinity of boats. When this occurs in poorly flushed waterbodies, the dissolved oxygen concentrations of the water may decrease (Milliken and Lee, 1990). The amount of the decrease in dissolved oxygen concentrations, and therefore the significance to the water, depends on the amount of sewage discharged into the system.

Chemical additives such as chlorine and formaldehyde are used to disinfect or control odors of on-board sewage. There is little indication that these chemicals have any harmful effects on the environment. The holding tank chemicals in use today are generally biodegradable and, if even marginally diluted, have little effect on treatment systems. No heavy metals or other severe, lingering toxics can be expected. However, some discussion of possible problems should be mentioned here. Of the two major disinfectant chemicals used—chlorine and formaldehyde—only chlorine has been shown to be toxic in the aquatic environment. While formaldehyde is considered a toxic

substance, it is completely miscible in water and is readily degradable. While a direct link between MSD holding tank disinfectants and effects on the environment has not been documented, the presence of these chemicals in sufficient concentrations may be of concern (JRB Associates, 1981). Use of these chemicals as directed by the manufacturer should not result in problems. However, since the amounts of chemicals added are controlled by the boat owner or operator, excess use may occur.

Section 2. Surveys of Pumpout Stations and Dump Stations

The Clean Vessel Act of 1992 calls for surveys by coastal States within three months of notification to the States of the final technical guidelines to determine: (1) The number and location of all operational pumpout stations and dump stations at public and private marinas, mooring areas, docks, and other boating facilities within the coastal zone of a State; and (2) the number of recreational vessels in the coastal waters of the State with Type III marine sanitation devices (holding tanks) or portable toilets and the areas where those vessels congregate.

Survey information may be obtainable from the boat registration process or files; contacts with trade associations or boating organizations; from national surveys if available; or from mail or telephone surveys of boaters or marina/mooring field facility operators. Some States have surveyed boaters at marinas on high concentration days. The U.S. Coast Guard, telephone 202/267–1497, can provide the following information regarding Documented Vessels (5 net tons and larger): The vessel's port of documentation, vessel length, beam, net tonnage, and whether or not the vessel is equipped with mechanical propulsion.

Section 3. What Constitutes Adequate and Reasonably Available Pumpout Stations and Dump Stations in Boating Areas

Factors affecting pumpout use: Potential demand for pumpouts and/or dump stations is a function of several variables. First is the number of boats of a size that use sewage holding tanks or portable toilets and where they are stored. Second, accessibility of pumpouts and dump stations affects their use. Distance from routes of travel or from the home port as well as the likely waiting time once at the facility can affect the willingness of boaters to use pumpouts and dump stations. A third factor to consider is boat use. High use at moorages is related to transient versus "parking lot" customers, year-round versus seasonal users, and the frequency of overnight use of boats. High boat use is seasonal, correlated with good weather, weekends and holidays. Fourth is the fee charged, with higher use related to lower fees (Ross & Amaral, 1992).

High-use of pumpouts and dump stations has also been related to aggressive management practices, active enforcement of "No Discharge Areas", perception of need by the public (related to the environmental sensitivity of the area and educational efforts), and good maintenance (Ross & Amaral, 1992).

Determining adequate and reasonably available station/facility needs: Boat numbers, boat size, boating use patterns, numbers and distribution of existing facilities, and where boats are kept during boating season (i.e., in a marina, yacht club, private dock, mooring, home on a trailer, etc.), determine the need for pumpout stations and dump stations. Moorages that receive high transient use, have mooring fields for large boats, are visited by large numbers of boats for refueling, and/or have a large number of people sleeping overnight or living on their boats should have high priority. Yacht clubs, boatyards and large capacity private docks should also be considered for priority installation of pumpouts and dump stations. Other situations that might be considered for the installation of facilities include marinas that provide fuel or service vessels equipped with MSD holding tanks. In addition to distributing stations/facilities in the above types of boating moorages, additional stations/facilities may be warranted where boat use impacts poorly flushed bays, coves, or sloughs and environmentally sensitive sites. After new facilities have been installed, subsequent patterns of use will indicate where and if additional pumpouts are needed. Periodic surveys should be conducted to ensure adequate numbers of pumpout stations and dump stations exist for boaters in the future.

Requirements for pumpout and dump stations vary by State and harbor. Some examples are as follows: Delaware requires a pumpout for marinas harboring 100 or more boats with marinas of 25–100 sharing a pumpout and those with less than 25 not required to install facilities. For New England, EPA Region I guidelines suggest a pumpout for 300–600 boats with toilets. A minimum of one pumpout per 300 boats with toilets is recommended in transient harbors with a high percentage of large vessels, while one pumpout per 600 boats with toilets should be provided in "parking lot" harbors where most boats are less than 25 feet long. In California's Richardson Bay, the pumpout guidelines is one station for every 300 boats. Launching ramps, marinas, etc., that cater to small craft (under 26 feet) or are too shallow for larger vessels may not need pumpouts, but may still require dump stations to receive portable toilet waste.

EPA's assessment (EPA, 1981) estimated that 20% of the boats between 16 and 26 feet, 50% of the boats between 26 and 40 feet, and all of the vessels over 40 feet had installed toilets with some type of MSD. So, if exact data are not available, an estimate could be calculated. The following is a method for estimating Statewide need for pumpout stations and dump stations (McKiernan, pers. comm.). It is not intended as a guide for determining requirements for a specific marina or harbor. The following assumptions underlie this method and can be adjusted where statistically valid information is available relating to a State's unique boating population characteristics.

(1) Given the availability of boat length information gathered during boat registration, assumptions can be made regarding the type of on-board sanitation equipment.

Boat length	Number with toilets (percent)	Type of system
16'–26	20	Portable toilets.
26'–40	50	Holding tanks.
40'+	100	Holding tanks.

(2) It is assumed every boat which is occupied will require service once a weekend and that the occupancy rate during peak periods is 40% (Ross, N. Auto Parking in Marinas, IMI, Wickford, RI, 1989).

(3) This method also assumes facilities will be in operation for twelve hours per day during peak boating season weekends and that the average time to service a boat's system will be 15 minutes for holding tanks and 5 minutes for portable toilets. Therefore:

Calculation for Estimating Need for Dump Stations

No. of Boats 16′ - 26′	×	No. With Portable Toilets (20%)	×	Peak Occupancy Rate (40%)	=	BOATS REQUIRING DUMP STATIONS

Boats Served Per Hour	×	No. of Hours Of Operation Per Weekend	=	BOATS SERVED PER FACILITY
(12)		(24)		(288)

= Dump Stations Required

Calculation for Estimating Need for Pumpout Stations

No. of [(Boats 26′ - 40′	×	No. With Holding) Tanks (50%)	+	No. of Boats] 40′ +	×	Peak Occupancy Rate (40%)	=	Boats Requiring Pumpout Facilities

Boats Served Per Hour	×	Number of Hours Of Operation Per Weekend	=	Boats Served per Pumpout
(4)		(24)		(96)

= Pumpout Stations Required

Section 4. Plans for Constructing Pumpout Stations and Dump Stations

The Clean Vessel Act calls for coastal States, within six months after notification of the final technical guidelines, to develop a plan for any construction or renovation of pumpout stations and dump stations. For efficiency of review and approval by the Fish and Wildlife Service, coastal States should complete the plan in the standardized format identified in the technical guidelines.

Section 5. Education/Information

A clearly defined education/information program that will support the timely implementation of a State plan should be presented by the State as a part of that plan. This guidance provides States with some ideas and information useful in developing an education/information program effective at informing the public, the boating community, the boating industry, local government officials, public interest groups, and other audiences the State identifies. Ultimately, the State education/information program should provide information and understanding that will encourage the use of and installation of pumpout and dump stations.

Education of the boating, marina owner, and vessel sewage handling and treatment communities is important to the potential success of this program. An effective education/information program will help to realize both short term and long term goals of the Act. The goals of education are as broad as the audiences they should be targeted to reach, yet, these goals can be achieved with increased dialogue between and information to these groups.

Six audiences should be considered when developing an education/information program regarding vessel sewage disposal, handling, and treatment, as follows: (1) Boat owners and operators; (2) Marina owners and operators; (3) Sewage treatment plant owners and operators; (4) Federal (where applicable), State and local governmental authorities and organizations; (5) Boating supply and retailers; (6) The general public.

There are a variety of media that States may have available for disseminating this information. Common methods to consider are; brochures, workshops/symposiums, educational videos, TV/radio, signs, boat shows, etc. Innovative methods are encouraged.

Issues to consider when developing education/information material targeted to a specific audience:

Issues on which education/information programs for boat owners and operators, as well as, boating supply and retailers, might focus would include: (1) Environmental impacts of boater sewage and the benefits of pumping out at a pumpout station and using a dump station; (2) How a pumpout station operates; (3) Pumpout hose connections/adapters; (4) Pumpout locations and fees; (5) "Green" boat toilet chemicals, i.e., short term biodegradable or less environmentally-damaging treatment chemicals. Encourage manufacturers through demand to market only environmentally responsible products; (6) Proper operation and maintenance of boat toilets; (7) The value of responding to boater surveys and requests for information.

Marina owners and operators are important participants in the implementation of this program. This group is making a commitment for the long term by agreeing to install, maintain, and operate pumpout and dump stations. Issues States should consider (where applicable) when developing education/information programs for marina owner and operators include: (1) Benefits to marinas under this program; (2) The application process for receiving funds to construct, renovate, maintain, and operate pumpout and dump stations; (3) What are adequate and reasonably available pumpout facilities; (4) Reasonable fees; (5) Environmental benefits of providing pumpout stations and dump stations; (6) How to obtain a permit for a municipal hookup and options for disposal of pumpout waste; (7) Where to locate pumpout and dump stations; (8) Methods of encouraging boater compliance with pumpout requirements; (9) Types of pumpouts and dump stations currently on the market; (10) Encourage manufacturers to provide demonstrations for and training of marina personnel responsible for operating these devices; (11) Highlighting Those marinas that have done an excellent job in installing and maintaining facilities.

Wastewater collected from pumpout facilities must be discharged from the

marina to an appropriate treatment facility. Waste treatment plant owners and operators should be made aware of the options available to them for receiving and treating waste from boat holding tanks and portable toilets. Issues for States to consider when developing education/information programs for wastewater treatment facility owners and operators include: (1) Effects of this waste stream on waste treatment plant's normal operations and how to mitigate any negative effects; (2) Volume of waste from boats in proportion to normal "household" loading standard; (3) Experience of waste system operators in areas designated "No Discharge".

States may find it necessary to develop education/information programs that address issues related to Federal, State and local government agencies. Issues to consider for education/information programs for this audience include: (1) Awareness of environmental requirements and enforcement options for vessel sewage disposal and treatment (particularly for incoming harbor masters); (2) Encouraging the development of technical guidelines for design, installation, and use of pumpout facilities; (3) Encouraging the appropriate Federal agencies to support a national standard on pumpout and boat fittings; (4) Environmental benefits of reducing the amount of waste water discharged from boats in localized areas, e.g., shellfish beds; (5) Encouraging vessel manufacturers to include procedures for proper operation of vessel holding tanks and shoreside pumpout facilities in new owners' manuals; (6) The value of enforcement in implementing this program; (7) Value of educating the public; (8) Informing Federal and local governments on how to access Federal informational sources, and encouraging them to do so; (9) Working with local governments to mandate, after a reasonable period of time, the installation of pumpout facilities at marinas, as a condition of marina licensure or operation.

Education of the general public has an important role to play. Issues to consider for education/information of this audience include: (1) The environmental impacts of boater waste; (2) Importance of the coastal resource; (3) Efforts by the boating community to reduce waste discharges.

States have options for distribution of educational information related to boating and pumpout issues. Options include magazines, radio public interest spots, environmental groups, association and federation newsletters, National Estuary Program forums, State and local education programs, local citizens groups, and student groups. New and innovative ways of educating the boating community and the general public are encouraged.

Representatives of the various groups could meet together at the State/local level to determine what information and education materials and strategies are needed to accomplish the objective. Private conservation and education groups could provide suggestions and materials once the needs are defined.

Section 6. Appropriate Methods for Disposal of Vessel Sewage From Pumpout Stations and Dump Stations

Introduction: The safe and sanitary disposal of vessel sewage waste must be provided for when constructing and operating pumpout stations and dump stations. Boaters will not want to spend time and money pumping out unless they can be assured that their efforts will help improve water quality.

Vessel Sewage Characterization

Vessel sewage is more concentrated than domestic sewage for almost all the standard parameters used to measure the quality of wastewater, including suspended solids, BOD, and total nitrogen. For example, the typical concentration of BOD in vessels is between 1700–3500 mg/l, while typical sanitary wastewater ranges from 110–400 mg/l for raw sewage and 5–100 mg/l for treated sewage. Raw municipal sewage has a lower concentration because people on land use more water for sanitary purposes than do people on boats. In addition, the proportion of gray water (defined as water from baths, showers and kitchens) is greater in municipal sewage, and municipal collection systems are subject to inflow and infiltration of storm water.

Another characteristic of vessel holding tank waste is the presence of chemical additives used to disinfect and deodorize the waste. These same additives are used to treat sanitary wastes in recreational vehicles (RVs), trains, and aircraft. Ideally, the odor-control chemicals should be biodegradable when diluted. These chemical additives commonly contain an active disinfectant along with dyes and perfumes. Some of the more common disinfectants include formaldehyde, paraformaldehyde, and quaternary ammonium chloride; formaldehyde is the most popular because of its effectiveness.

There is some concern from operators of small municipal and package sewage treatment plants and some marina operators with septic systems that vessel sewage holding tank waste may adversely affect performance of their sewage treatment systems by destroying the bacterial population, thereby reducing plant efficiency. A second concern, particularly of operators of municipal treatment plants operating at or near capacity, is that the additional volume of waste will cause the plant to exceed its capacity to treat wastewater effectively.

Research into the effects of chemical additives on sewage treatment processes indicates that these problems have been greatly overstated, and that, in general, most municipal sewage treatment plants can handle vessel holding tank waste without difficulty. In addition to relatively low volumes generated by sewage pumpout stations, the weekly and seasonal usage of marina facilities protects treatment systems from failing or exceeding capacity. Marinas receive their largest pumpout volumes on weekends and, in many parts of the country, only during the summer season. Therefore, treatment plants generally are able to assimilate such intermittent waste loading and no serious operational problem occurs.

Despite the negligible effects of holding tank additives on sewage treatment processes, general concern about toxic contaminants in the environment has led to the development of non-toxic, environmentally benign holding tank deodorants and disinfectants such as quarternary ammonium compounds, enzymes and adamantane. Holding tank chemicals in use today are generally biodegradable and if even marginally diluted, have little effect on treatment systems. No heavy metals or other severe, lingering toxics can be expected. States should encourage the use of these biodegradable products through education and, if necessary, regulation.

Disposal Methods

Disposal methods will vary depending on a number of factors, including: State and local sanitation codes; the number of recreational vessels and where the vessels are concentrated; the availability and geographic proximity of existing treatment facilities to boating centers; and hydrogeologic characteristics, including soil types and groundwater flows. Depending on these factors, States may consider the following methods: (1) Off-site treatment: (a) Discharge to a public wastewater collection system and treatment facility; (b) discharge to a holding tank with removal and transport by a licensed septage hauler to a municipal septage receiving/treatment facility.

(2) On-site treatment at marinas: (a) Discharge to a package treatment plant with subsequent discharge back into coastal waters (a National Pollutant Discharge Elimination System permit would be required); (b) discharge to a septic system, where no other alternative is available.

The following is a description of the relative merits of each of these methods. It should be noted that each State has its own regulations and policies regarding what it considers "appropriate" disposal methods. What one State considers appropriate or even desirable, another may prohibit.

Off-Site Treatment

There are hundreds of existing municipal wastewater treatment facilities serving coastal areas throughout the country. Most provide at least secondary treatment utilizing an activated sludge process, but they vary greatly in size and details of treatment structures, sludge handling capability, and success in meeting current permit terms and conditions. In addition, many also incorporate septage receiving and treatment facilities into the overall treatment system.

Public Wastewater Collection Systems: The best option for the safe and sanitary disposal of vessel sewage is through a direct connection to an approved wastewater treatment facility. Most municipal treatment plants should have no problem accepting vessel holding tank waste. The relatively small volume of holding tank waste, bled into the sanitary waste stream, is effectively diluted by municipal sewage. The relatively large volume of wastewater routinely handled by these plants also mitigates against plant upset, and the treatment process can also break down or volatilize certain of the trace organic chemicals. Sewage treatment plants with a long history of accepting holding tank waste have reported no problems with this practice. However, States should exercise caution in designating sewage treatment plants that are over-capacity, have operational problems, or violate permit conditions on a regular basis.

Shoreside Holding Tanks/Septage Treatment Facilities: Many boating facilities are located where connection to a wastewater collection system is difficult or infeasible. In these cases, connection of the pumpout or dump station to a shoreside holding tank is the next best option. Holding (or tight) tanks provide a means for sanitary storage of vessel sewage until it can be transported by a licensed septage hauler to an approved septic waste receiving/treatment facility. The holding tank may be above or below ground, depending on State or local requirements, but should be located on solid land and secured to minimize potential storm damage or vandalism.

Septage receiving/treatment facilities are designed specifically to pretreat these wastes before introducing them to the wastewater treatment system. Because vessel holding tank and portable toilet waste is similar in nature to domestic septage, although more concentrated with variable amounts of organic chemicals, a properly operating municipal treatment plant with septage receiving/treatment facilities should not be adversely affected by the introduction of holding tank waste.

Modifications to Wastewater/Septage Treatment Facilities: Some wastewater treatment plants and septage receiving/treatment facilities may require modification to accommodate vessel sewage. These modifications may include increased capacity, construction of adequate septage receiving/treatment facilities, holding and bleed-in facilities, pretreatment facilities, and additional analytical capability. To determine which plants have the capability to effectively process holding tank waste, and whether additional facilities (or modifications to existing ones) are required, States may need to conduct a survey of the existing capabilities and limitations of their existing sewage treatment plants. A matrix to determine these capabilities might include the following elements, for which many States have available data as file information: (1) List all sewage treatment plants; (2) Eliminate plants that are over capacity, have operational problems, or violate permit conditions regularly; (3) Evaluate the balance for existing capacity and treatment methodology; (4) Estimate the available capacity; (5) Develop a short list of candidates for vessel sewage treatment; (6) Develop list of potential needs for modifications to those plants, including: (a) Receiving stations; (b) holding/bleed-in tanks, and associated piping; (c) pretreatment needs; (d) associated sludge handling needs; and, (e) additional staff and analytical capabilities.

On-Site Treatment

On-site treatment at a marina may be a viable alternative when the marina is not located near sewer lines, when transport of waste is prohibitively expensive, when the local sewage treatment plant is unable to accept additional discharges, and when groundwater and coastal waters can be protected. Prior to installing these systems, State law should be reviewed for legality. On-site treatment eliminates the need to transport waste. However, the proliferation of small, potentially troublesome treatment systems often creates more water quality problems than the collection of vessel sewage is intended to solve, including coastal and groundwater contamination.

Package Treatment Plants

Package treatment plants offer an alternative for the treatment of both vessel sewage and waste generated by marina restrooms and other shoreside sanitary facilities. Package treatment plants are usually small, prefabricated sewage treatment plants that provide secondary treatment, generally utilizing the extended air mode of operation. In this process, treatment is accomplished by introducing air into the wastewater to encourage the growth of aerobic bacteria which digest the sewage, providing a high degree of treatment.

Discharging vessel sewage to a package treatment plant should only be considered by boating facilities with large treatment systems that can handle the increased shock loading and chemical additives present in this type of waste. The typical problems with such systems are exacerbated by the nature of holding tank waste. Like septic systems, package plants are designed to deal with sewage with a low solids content, and the treatment process itself is highly dependent on an environment that is not toxic to the treatment bacteria. Holding tank waste is concentrated, which may raise treatment and sludge handling issues. Normal difficulties with treatment variability would be worsened by the slug flow nature of the discharges to a package treatment plant, though they can be eliminated by "bleeding" the influent into the plant. In addition, the waste may contain metals and hydrocarbons which can destroy the treatment process in a small plant.

Based on these concerns, States may not want to encourage the development of a multiplicity of small sewage treatment plants, due to the variability of effluent quality as well as substantial difficulty in ensuring proper operation and maintenance of the mechanical components of such systems.

Septic Systems

Septic systems are the conventional on-site sewage treatment systems throughout the United States. They consist of a septic tank where primary treatment (physical operations) predominate. These operations are floatation, settling, and the digestion of the sludge that accumulates in the bottom of the tank. Effluent from the

tank is directed to a subsurface leaching system which provides additional treatment by establishment of a biological crust; its resultant permeability is a direct function of the BOD and suspended solids in the effluent stream. Once effluent leaves the crust zone it enters a soil environment where, if the septic system has been properly sited, a number of treatment processes will result in a high quality final effluent. The size and location of the leaching system (or drainfield) is extremely important because of the quality of the final treatment is highly dependent on the type and quantity of the soil through which the effluent will pass.

In general, septic systems are not a favorable option for the disposal of vessel sewage, because they are not designed to treat the high solids content, high strength, and possibly toxic content of these wastes. They are not very effective at removing trace organic chemicals, and are ineffective at removing nutrients. The chemical additives used to disinfect and deodorize holding tank waste may kill the bacteria that aerobically digest the sewage, allowing solids to pass through the septic tank and causing the drainfield to clog and overflow. Nutrients leaching from the drainfield may stimulate algal growth in receiving waters, which can reduce the amount of sunlight necessary for submerged aquatic vegetation to grow and use up oxygen needed for fish and other aquatic life. In marine waters nitrogen is the nutrient most likely to cause these adverse effects, while phosphorous is the problem in fresh water.

Vessel sewage should be discharged to a septic system only if no other options exist and the system is specifically designed and sited to receive such waste. This design includes: Using large tanks to manage and "bleed" in increased flows from pumpout stations; combining flows from ordinary bathroom facilities on-shore and the pumpout stations to dilute pumpout wastes; providing two septic tanks in series to help segregate solids in the first tank and increase retention time in the system; a large single drainfield or use of alternating drainfields, and proper siting to assure the leach field does not drain into the coastal waters or contaminate groundwater. In addition to following specific design criteria, septic systems should be inspected regularly and properly maintained.

Section 7. Types of Marine Boat Sewage Pumpout Stations and Dump Stations That may be Appropriate for Construction, Renovation, Operation, or Maintenance, and Appropriate Location of the Stations and Facilities Within a Marina or Boatyard

There are four basic types of pumpout stations on the market. Each one has its advantages and disadvantages. Since every marina is unique, there is no one solution that will work in all cases. Therefore, each case should be examined individually, and the pumpout that will work best in any particular situation should be selected. Costs for equipment and installation can vary greatly, depending on need for sewage lift stations to accommodate widely fluctuating tides, need for special onshore holding tanks to hold concentrated waste, cost of connection to a sewer system, and other factors. Stationary or portable dockside pumps cost in the range of $2,000 to $10,000, and typical complete installations may be as high as $20,000. Following is a list of pumpout station types with a discussion of advantages and disadvantages.

(1) *Stationary pumpout unit:* Stationary units include a connector hose and pump, and are connected directly to a local or municipal sewage treatment facility or a holding tank. The unit is usually located at the end of a pier or floating dock, often near the fueling facilities. Vessels access the pumpout station by approaching and securing to the dock or pier. Advantages are convenience, efficiency and speed of use. Principal disadvantage is that the unit restricts pumpout service to a single area of the marina, which may cause congestion.

(2) *Portable pumpout unit on wheels:* This unit may be a wheeled device, consisting of a holding tank, hose and mechanical or hand pump, that is pushed along a dock to the vessel's location to pump out vessel sewage. The advantage is the unit is brought to the boat rather than the boat to the station. When full of sewage, however, the unit can be heavy and cumbersome. Since it must be moved from boat to boat, the time required to complete the pumpout operation can be somewhat greater than that of fixed units. Being able to move the unit can also be an advantage for pumping out boats during slow weekdays, especially after a busy weekend. The unit is also limited by its storage capacity.

(3) *Portable pumpout unit on vessel:* This unit is a boat with pumpout station on board, consisting of a pump and holding tank, that may be radio-dispatched or respond to a signal flag, to pump vessel holding tanks. The advantage is the convenience of having the pumpout station come directly to the boat.

(4) *Remote operated multi-station system:* This system has a pump which transports wastes via a main sewer to central collection and treatment. This unit can provide pumpout capabilities at any number of locations throughout the marina. This system, which provides wastewater collection anytime, combines the convenience and efficiency of fixed units with the versatility offered by portables. This system must be specifically designed to individual project requirements.

There are five basic types of pumps used in pumpout systems. Following is a description of each.

(1) *Centrifugal pump (rotary or impeller types):* This pump works when sewage in its impeller is spun to the outside of the impeller by centrifugal force, which creates a low pressure area at the impeller as it pumps. Most centrifugal pumps require priming. This pump is usually employed in lift station situations.

(2) *Reciprocating pump (diaphragm and piston types):* This pump, mechanical or hand operated, creates suction by mechanically lifting a diaphragm up and pushing it down in a pump body. The diaphragm works in conjunction with two or four check valves. As the diaphragm lifts, the low pressure area under it causes sewage to be sucked into the body through the inlet check valve; when it is pushed down the pressure under the diaphragm closes the inlet check valve and forces sewage out the outlet check valve. This pump is self-priming.

(3) *Vacuum pump:* This pump does not directly contact sewage, but draws air out of a tank which creates the necessary low pressure area or vacuum to cause the sewage to flow in. When the accumulator tank is full, pressurized air enters the accumulator tank and the pressure pushes the sewage out to a sewer or holding tank. This pump allows pumping over longer distances.

(4) *Flexible vein impeller pump:* This pump has suction lift. It is easy to repair and needs no priming. A switch device is needed to prevent the pump from running dry and damaging the impeller.

(5) *Progressive cavity pump:* This pump consists of stainless steel rotor or screw surrounded by a tight fitting rubber sleeve. As the rotor turns the sewage is progressively moved to the discharge line. This pump is self-priming.

Equipment failure can occur with any of the above equipment. Most common

causes are mechanical failure, followed by clogging of hose and/or pump, loss of hose prime, and hose failure (Ross & Amaral, 1992).

In addition to pumpout stations, there are facilities to receive sewage waste from portable toilets. A dump station consists of a receiving receptacle for sewage from portable toilets, and includes associated equipment and storage tank or sewer line connection. This facility is not a land-based or floating restroom, but can be made a part of such. Floating dump stations should be considered at mooring fields and other strategic locations. The device typically includes a receiving basin, which should be a minimum of 12 inches in diameter, and with a lid that completely covers the receiving unit (to control odors and insect access), with provisions for rinsing the portable toilet following emptying of the contents. If the unit is designed to drain, the drain should be a minimum of 3 inches in diameter and equipped with an insect-tight cover. Dump stations should be equipped with a washdown system to allow cleaning of the portable toilet. The washdown system should be clearly marked as unfit for drinking water. Wand attachments may be connected to a pumpout station to empty portable toilets, rather than building a separate facility.

Following is a description of other equipment that is part of the pumpout station.

Pumpout station holding tanks: Holding tanks should be sized appropriately for the volume of sewage generated and the frequency of removal of material from the holding tank. State and local requirements may govern the size of holding tanks. Generally, a 1,500-gallon holding tank can serve up to 100 boats with holding tanks. In terms of the number of boats serviced with a normal removal schedule, the following minimum sizes are suggested:

Total number of boats serviced with holding tanks	Recommended holding tank volume (gallons)
1–20	300
21–40	600
41–60	900
61–80	1200
81–100	1500
100+	2000

Pipes/hoses: Discharge piping should be rigid or noncollapsing flexible, with locking connections. Corrugated or ribbed hoses are not recommended. The line should be watertight and appropriately fastened or secured to the dock or pier. Local building codes should be checked for specific piping requirements, but the following materials are generally accepted for pumpout station service: Polyvinyl chloride (pvc), and polyethylene. Expansion joints should be included where appropriate. Force main systems may require "thrust blocks" and other security fastenings.

Fittings: A deck fitting (sewage removal fitting) is a flanged fitting permanently mounted on the vessel and connecting to the onboard holding tank. A connector is a nozzle or coupling permanently attached to the suction hose of a pumpout station. An adapter is a fitting designed to facilitate adapting a pumpout connector to a vessel deck fitting.

When the requirement for vessels with an installed toilet to have a certified marine sanitation device went into effect under 33 CFR 159 on January 30, 1975, there was a requirement for sewage removal fittings or adapters to be 1.5 inch for boats less than 65 feet in length. The expected types of acceptable fittings included threaded, flanged, or quick disconnect fittings. However, 33 CFR 159 was amended on January 3, 1977 to allow holding tanks to be certified by definition if they store sewage and flushwater only at ambient air pressure and temperature. As a result, boats have been put on the market with many sizes of sewage removal connector fittings, requiring the use of adapters in order to assure a clean, tight connection when a pumpout occurs.

There are several adapters on the market today. A black rubber nozzle is used by most boaters. Another adapter, the fuel hose fitting or cam-activated connector, consists of a male portion which fits into the connector, and a female portion which locks onto the male portion.

A suction nozzle or fitting such as a friction nozzle (right angle preferred) or cam-activated quick connector positive locking attachment should be provided on the end of the suction hose. Adapters should be provided to fit the 1.5 inch discharge connector. A valve should be provided on the suction hose at the nozzle. A valve should be provided on the pump end of the suction line if the line is to be installed in a manner such that sewage would discharge from the line when the pump is removed for service. Positive locking connections on the end of the discharge line should be provided to prevent it from coming loose during discharge. The discharge line should be protected from freezing, and prevented from leaking into the water. Suction hoses should be equipped with a clear tubing or a sight glass on the suction end of the hose to allow the pumpout station operator to determine when the pumping is complete.

Other factors that should be considered when installing pumpout stations/dump stations include the following.

Convenient location enhances use. Stationary pumpout stations should generally be located as close to a boat off-loading point as possible and/or where boats need to maneuver the least. The end of a dock is a good location because it is accessible. Many facilities are located at the fuel dock, so boaters only have to go to one location for both of these activities. Water level changes should be considered when installing pumpout stations.

Operation and maintenance: Proper operation and maintenance of pumpout stations and dump stations are critical to provide adequate and reasonable service. An individual should be assigned responsibility for operation and maintenance of pumpout and dump stations. Consider appropriate protective clothing, such as gloves, and hand washing, to protect the operator. Washing facilities should be readily available.

Convenience for boaters and operators is a major factor. Hours of operation for pumpout stations should be keyed to general operating hours for vessels in the area. Specific maintenance and winter storage requirements depend on the system and the location. However, the following minimum maintenance is suggested to maintain sanitary conditions: Use dedicated system for flushing and rinsing hoses; flush hoses; pump clean water through the system, and empty into disposal area, never onto the ground or into the water.

An event or hour meter could be installed on the pump to monitor its use. Monitoring of pumpouts should be an integral part of a marina management program to ensure that the facilities are operating effectively. The following practices can be applied successfully to maintain pumpout facilities: arrange maintenance contracts with contractors competent in the repair and servicing of pumpout facilities; develop regular inspection schedules; maintain a dedicated fund for the repair and maintenance of facilities.

Section 8. Other Information That is Considered Necessary to Promote the Establishment of Pumpout Facilities to Reduce Sewage Discharges From Vessels and to Protect United States Waters

Public/private partnerships: Since approximately 80 per cent (based on the

1986–87 National Boating Facilities Survey, IMI/URI conducted for NMMA) of the marinas in the United States are privately owned, States are encouraged to develop partnerships, within State laws and regulations, with private marinas to construct pumpout stations at these facilities.

"No Discharge Areas": Sections 312(f)(3) and (4)(A) and (B) of the Clean Water Act of 1987 enable States to apply to the EPA for designation of certain water bodies as "No Discharge Areas". In doing so, States must meet specific criteria outlined in 40 CFR 140.4 including demonstrating to the EPA Administrator that adequate and reasonably available facilities exist for the safe and sanitary removal of boat sewage. States should not consider "adequate and reasonably available" under the Clean Vessel Act to satisfy all requirements for determining "No Discharge Areas" under the Clean Water Act. A separate review and determination would have to be made by the EPA for Clean Water Act designation of a "No Discharge Area".

Holding tank bypass: Discharge of raw sewage from a vessel in U.S. Territorial Seas (within the three mile limit) is illegal. Holding tanks are frequently bypassed with the use of valves, commonly called Y-valves. A valve may be installed on any marine sanitation device holding tank to provide for the direct discharge of raw sewage when the vessel is beyond the baseline of the Territorial Seas, which is more than three miles from shore. The valve must be secured in the closed position while operating in Territorial Seas. Use of a padlock, non-releasable wire-tie, or removal of the valve handle would be considered adequate securing of the device. The method chosen must be one that presents a physical barrier to the use of the valve or the toilet. All Y-valves should be standardized, so that the handle points in the direction that the sewage flows and/or indicates the open and closed position. The Y-valve should be place after the holding tank rather than between the toilet and holding tank.

Upland and floating restrooms: Clean, well-maintained restrooms are very desirable for boaters. Many boaters would rather use these when available than use holding tanks. Restrooms should be constructed at marinas and other strategic locations.

Rental Contracts: Marinas could add language in rental contracts to prohibit discharge of sewage into the marina waters.

Disinfectants, perfumes: Industry should produce only products which will not harm waste treatment plants or septic tanks. A symbol should be placed on the label of these products indicating they may be discharged into treatment plants or septic tanks if correctly used in a properly designed treatment system.

Additional information: For additional information on pumpout stations, refer to: (1) "A Guidebook For Marina Owners and Operators On the Installation and Operation of Sewage Pumpout Stations", Maryland Department of Natural Resources Boating Administration, Coastal Technology, Inc., February 1990; (2) "Commonwealth of Virginia Sanitary Regulations for Marinas and Boat Moorings", State Department of Health, Richmond, VA, 1990; (3) "Guidance for States and Municipalities Seeking "No Discharge Area" Designation for New England Coastal Waters", Rev. 4/92, U.S. Environmental Protection Agency, Region 1, Boston, MA; (4) "State of the Art Assessment of Boat Sewage Pumpout Program in Washington State", 12/91, Howard Edde, Inc., Bellevue, WA, for Washington State Parks and Recreation Commission, Olympia, WA. For further information on pumpout stations and dump stations, consult "Marina Pump Out Facilities", Joseph Wettemann, 1/89, and "Types of Pump Out Facilities", Natchex, 7/92.

Dated: February 11, 1994.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 94–5530 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–55–M

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.*):

PRT–783902

Applicant: Dallas Zoo, Dallas, TX

The applicant requests a permit to export two captive-born female Round Island boas (*Casarea dussumieri*) to the Jersey Wildlife Preservation Trust, United Kingdom, for breeding to enhance the survival of the species.

PRT–787726

Applicant: Cincinnati Zoo, Cincinnati, OH

The applicant requests a permit to import one female captive-born great Indian rhinoceros (*Rhinoceros unicornis*) from the Metropolitan Toronto Zoo, Canada, for breeding to enhance the survival of the species.

PRT–787646

Applicant: Northland Animal Exchange, Abbotsford, British Columbia, Canada

The applicant requests a permit to import two captive-born tigers (*Panthera tigris*) from Wild Kingdom Zoo, Manitoba, Canada, to Steve Martin's Working Wildlife, Frazer Park, California, for breeding to enhance the survival of the species.

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 432, 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 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: March 4, 1994.

Susan Jacobsen,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 94–5460 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–55–P

Geological Survey

Abandoment of the USGS 15-Minute Topographic Quadrangle Map Series; [1:62,500-Scale]

AGENCY: Geological Survey, Interior.

ACTION: Notice.

SUMMARY: The U.S. Geological Survey (USGS) 7.5-minute topographic quadrangle map series is the official replacement for the USGS 15-minute series. The 7.5-minute (1:24,000-scale) series, which provides grater detail than the 15-minute series, has been completed for all States (except Alaska, which is covered by maps at 1:63,360-scale) The USGS has not revised or reprinted the maps for many years and can longer support both the 7.5-minute and the 15-minute map series. Consequently, the 15-minute series has been officially abandoned and will no longer be available for sale after June 1, 1994.

DATES: March 1–31, 1994—USGS map dealers may exchange USGS 15-minute topographic maps that they have in stock either for credit at the discounted

rate of $1.25 per map or for 7.5-minute maps, one for one. No dealer exchange or credit will be accepted after March 31, 1994.

April 1–May 31, 1994—State agencies, the general public and map dealers may purchase remaining USGS 15-minute topographic maps in stock for $0.50 per map, in minimum quantities of 100 maps per title.

June 1, 1994—The USGS 15-minute topographic maps are officially abandoned. This means that 15-minute maps will no longer be available from the USGS. However, copies of color separates will still be available for sale and descriptive information will be maintained for reference.

ADDRESSES: U.S. Geological Survey, 508 National Center, 12201 Sunrise Valley drive, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Gary W. North, Assistant Division Chief, Office of Information Services, National Mapping Division, U.S. Geological Survey, 508 National Center, 12201 Sunrise Valley Drive, Reston, Virginia; telephone (703) 648–5780; facsimile (703) 648–5939.

SUPPLEMENTARY INFORMATION: Until each of the printed catalogs can be updated, Earth Science Information Centers and the Branch of Distribution in Denver, Colorado, will insert 15-minute map abandonment notices in the catalogs.

Dated: February 28, 1994.

Allen H. Watkins,

Chief, National Mapping Division.

[FR Doc. 94–5587 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–31–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–360 and 361 (Preliminary) and 731–TA–688 Through 695 (Preliminary)]

Certain Carbon Steel Butt-Weld Pipe Fittings From France, et al.

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of preliminary countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigations Nos. 701–TA–360 and 361 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and of preliminary antidumping investigations Nos. 731–TA–688 through 695 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from France, India, Israel, Malaysia, the Republic of Korea, Thailand,[1] the United Kingdom, and Venezuela of certain carbon steel butt-weld pipe fittings,[2] provided for in subheading 7307.93.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of India and Israel and alleged to be sold in the United States at less than fair value. The Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by April 14, 1994.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: February 28, 1994.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on February 28, 1994, by the U.S. Fittings Group, Washington, DC.

Participation in the Investigations and Public Service List

Persons (other than petitioner) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in these investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on March 21, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) not later than March 17, 1994, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 24, 1994, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document

[1] Only subject products produced by Awaji Sangyo (Thailand) Co., Ltd.

[2] For purposes of these investigations, certain carbon steel butt-weld pipe fittings are defined as carbon steel butt-weld pipe fittings having an inside diameter of less than 360 millimeters (14.17 inches), imported in either finished or unfinished condition.

filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII, as amended. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: March 7, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–5628 Filed 3–9–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 332–352]

Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and request for comments.

SUMMARY: Pursuant to section 206 of the Andean Trade Preference Act (ATPA, 19 U.S.C. 3204) and section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the United States International Trade Commission instituted investigation No. 332–352, Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication.

EFFECTIVE DATE: February 17, 1994.

FOR FURTHER INFORMATION CONTACT: James E. Stamps (202–205–3227), Trade Reports Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. Hearing-impaired individuals can obtain further information by contacting the Commission's TDD terminal at 202–205–1810.

BACKGROUND

Section 206 of ATPA requires that the Commission submit annual reports to the Congress regarding:

(1) The actual economic effect of ATPA on the U.S. economy generally as well as on specific industries which produce articles that are like, or directly competitive with, articles being imported under the Act;

(2) The probable future effect of ATPA on the U.S. economy generally and on industries affected by the Act; and

(3) The estimated effect of ATPA on drug-related crop eradication and crop substitution efforts of beneficiary countries.

Section 332(b) of the Tariff Act of 1930 provides the Commission with general authority to conduct factfinding investigations with respect to trade and tariff matters. The Commission's first annual report on ATPA, covering calendar years 1992 and 1993, is to be submitted by September 30, 1994.

WRITTEN SUBMISSIONS: The Commission does not plan to hold a public hearing in connection with this investigation. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary of the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than May 2, 1994. Address all submissions to Office of the Secretary, U.S. International Trade Commission, 500 E St., SW., Washington, DC 20436.

By order of the Commission.

Issued: March 4, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–5630 Filed 3–9–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–355]

Certain Vehicle Security Systems and Components Thereof; Decision Not To Review an Initial Determination Granting Joint Motion To Terminate Investigation With Respect to Respondent, Audiovox Corp., on the Basis of a License Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 13) issued on January 31, 1994, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motion of complainant Code-Alarm, Inc. ("Code-Alarm") and respondent Audiovox Corp. ("Audiovox") to terminate the investigation with respect to Audiovox on the basis of a license agreement.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–3105.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930 in the importation, sale for importation, and sale after importation of certain vehicle security systems and components thereof, on August 25, 1993. Complainant Code-Alarm alleges infringement of claims 1–16 of U.S. Letters Patent 5,049,867 (the '867 patent).

On January 3, 1994, Code-Alarm and Audiovox filed a joint motion to terminate the investigation with respect to Audiovox on the basis of a license agreement. On January 31, 1994, the ALJ issued an ID granting the joint motion and terminating the investigation as to Audiovox. No petitions for review or agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: March 4, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–5631 Filed 3–9–94; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at William M. Mercer, Inc. 30th Floor, Conference Room 30–C, 1166 Avenue of the Americas, New York, New York on April 8, 1994, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exception to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: March 3, 1994.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 94–5572 Filed 3–9–94; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis Arnold, on (202) 514–4305. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

New Collection

(1) NIC Short-Term Technical Assistance/Training Consultant Fee Survey.

(2) None. National Institute of Corrections.

(3) Once every three years.

(4) Individuals or households. The purpose of this project is to provide the Institute with information on the competitiveness of its established daily flat-fee fate for consultants contracted with under the Institute's Short-Term Technical Assistance/Training Programs.

(5) 70 annual responses at .25 hours per response.

(6) 17.5 annual burden hours.

(7) Not applicable under Section 3504(h).

Public comment on this item is encouraged.

Dated: March 7, 1994.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

[FR Doc. 94–5557 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–36–M

Lodging a Consent Decree Pursuant to the Resource Conservation and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. 6973(d), notice is hereby given that on March 4, 1994, a proposed consent decree in *United States* versus *Dale Valentine, et al.*, Civil Action No. 93CV1005J, was lodged with the United States District Court for the District of Wyoming.

The complaint filed by the United States on February 19, 1993, seeks injunctive relief and civil penalties under Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6973. The complaint alleges that an abandoned oil reprocessing facility near Glenrock, Wyoming, commonly known as Powder River Crude Processors or Big Muddy Oil Processors (the "Site"), may present an imminent and substantial endangerment to human health or the environment. The complaint seeks injunctive relief for a clean up of the Site and civil penalties for violations of administrative orders issued by EPA.

Under this consent decree, five of the ten defendants named in the action, Texaco Marketing and Refining Inc., Phillips Petroleum Company, True Oil Company, Eighty-Eight Oil Company, and Conoco Pipe Line Company ("Settling Defendants"), will conduct a clean up of the Site, which contains unlined sludge pits, leaking tanks, oily seeps and spills, and contaminated soils. It is estimate that this cleanup will cost between $4.4 and $8.9 million. In addition, the Settling Defendants will pay a civil penalty of $300,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States* versus *Dale Valentine, et al.*, DOJ Ref. #90–7–1–692.

The proposed consent decree may be examined at the Office of the United States Attorney for the District of Wyoming, 3rd Floor, Federal Building, 111 South Wolcott, Casper, Wyoming 82601; the United States Environmental Protection Agency, Region 8, 999 18th Street—Suite 500, Denver, Colo. 80202–2466; and at the Consent Decree Library, 1120 "G" Street, N.W., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and number, and enclose a check in the amount of $15.75

(25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–5483 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Development of Standard Cryogenic Tank Design Specification Utilizing New Technology

Notice is hereby given that, on January 21, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Air Products and Chemicals, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture are Air Products and Chemicals, Inc., Allentown, PA; Praxair, Inc., Danbury, CT; Minnesota Valley Engineering, Inc., Bloomington, MN; and Harsco Corporation, Wormleysburg, PA. The objective of the venture is to develop a new standard cryogenic tank design specification utilizing new technology.

Joseph H. Widmar,

Deputy Assistant Attorney General, Antitrust Division.

[FR Doc. 94–5596 Filed 3–9–94: 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bell Communications Research, Inc.

Notice is hereby given that, on January 25, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications on behalf of Bellcore and J. C. Penney Company ("JCPenney") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Bellcore, Livingston, NJ; and JCPenney, Plano, TX. Bellcore and JCPenney entered into an agreement effective as of December 17, 1993, to engage in cooperative research related to technologies for accessing multimedia databases through an information infrastructure and for enabling electronic purchases through the information infrastructure to better understand the feasibility and application of these technologies for exchange and exchange access services, including experimental prototypes for the demonstration of such technologies.

Joseph H. Widmar,

Deputy Assistant Attorney General, Antitrust Division.

[FR Doc. 94–5594 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Gas Utilization Research Forum

Notice is hereby given that, on January 18, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et. seq.* ("the Act"), Gas Utilization Research Forum ("GURF") filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in membership. The notifications were filed for the purpose of extending the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, Texaco, Inc., Houston, TX, has become a new member of GURF.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the members intend to file additional written notification disclosing all changes in membership.

On December 19, 1990, GURF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 16, 1991, 56 FR 1655.

The last notification was filed with the Department on August 27, 1993. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 8, 1993, 57 FR 52508.

Joseph H. Widmar,

Deputy Assistant Attorney General, Antitrust Division.

[FR Doc. 94–5593 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—MCI Telecommunications Corporation

Notice is hereby given that, on January 24, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), MCI Telecommunications Corporation ("MCI") has filed written notifications on behalf of MCI and Ericsson GE Mobile Communications, Inc. ("Ericsson") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are MCI, Washington, D.C.; and Ericsson, Research Triangle Park, NC. This venture was created to investigate deployment strategies for personal communications services (PCS) in the United States initially utilizing the Global System for Mobile Communications (GSM) platform structure and open architecture, to develop widely-available specifications for PCS network equipment and to identify changes necessary to adapt existing GSM platform to the U.S. marketplace.

Joseph H. Widmar,

Deputy Assistant Attorney General, Antitrust Division.

[FR Doc. 94–5592 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—MCI Telecommunications Corporation

Notice is hereby given that, on January 24, 1994, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), MCI Telecommunications Corporation ("MCI") has filed written notifications on behalf of MCI and Nokia Inc. ("Nokia") simultaneously with the

Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are MCI, Washington, D.C.; and Nokia, Irving, TX. This venture was created to investigate deployment strategies for personal communications services (PCS) in the United States initially utilizing the Global System for Mobile Communications (GSM) platform structure and open architecture, to develop widely-available specifications for PCS network equipment and to identify changes necessary to adapt existing GSM platform to the U.S. marketplace.

Joseph H. Widmar,

Deputy Assistant Attorney General, Antitrust Division.

[FR Doc. 94–5595 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–01–M

Federal Bureau of Investigation

National Stolen Auto Part Information System (NSAPIS) Federal Advisory Committee

The National Stolen Auto Part Information System (NSAPIS) Federal Advisory Committee will meet on April 19–20, 1994, from 9 a.m. until 5 p.m., at the Dulles Airport Marriott, 333 West Service Road, Chantilly, Virginia, telephone 703–471–9500, to discuss the design and implementation of the National Stolen Auto Part Information System (NSAPIS) mandated by Public Law 102–519.

The Committee will address issues concerning the theft status verification process, NSAPIS response time requirements and record retention periods, anticipated database sizing and estimated transaction volume, and data quality and record validation.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public may file a written statement concerning the National Stolen Auto Part Information System or related matters with the Committee, before or after the meeting, by sending same to the Chairman/Designated Federal Officer. Anyone wishing to address this session of the meeting should notify the Designated Federal Officer, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, or a hand-delivered note. It should contain the requestor's name; corporate designation, consumer affiliation, or Government designation; along with a short statement describing the topic to be addressed; and the time needed for presentation. A nonmember requestor will ordinarily be allowed not more than 15 minutes to present a topic, unless specially approved by the Chairman.

Inquiries may be addressed to the Chairman/Designated Federal Officer, Mr. Virgil L. Young, Jr., Chief, Programs Development Section, CJIS Division, FBI, 10th and Pennsylvania Avenue, Northwest, Washington, DC, 20535, telephone (202) 324–5084.

Dated: March 4, 1994.

Virgil L. Young, Jr.,

Chief, Programs Development Section, Designated Federal Officer.

[FR Doc. 94–5599 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–02–M

Office of Justice Programs

Office for Victims of Crime

Victims of Crime Act Victim Assistance Grant Program

AGENCY: Department of Justice, Office of Justice Programs, Office for Victims of Crime.

ACTION: Final program guidelines.

SUMMARY: The Office for Victims of Crime (OVC), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ), is publishing Final Program Guidelines to implement the victim assistance grant program as authorized by the Victims of Crime Act of 1984, as amended, 42 U.S.C. 10601, *et seq.* (hereafter referred to as VOCA).

EFFECTIVE DATE: These Final Program Guidelines are effective upon publication.

FOR FURTHER INFORMATION CONTACT: Carolyn A. Hightower, Director, State Compensation and Assistance Division, at the above address; telephone number (202) 307–5947.

SUPPLEMENTARY INFORMATION: VOCA authorizes Federal financial assistance to States for the purpose of compensating and assisting victims of crime, providing funds for training and technical assistance, and assisting victims of Federal crimes. These Program Guidelines provide information on the administration and implementation of the VOCA victim assistance grant program as authorized in Section 1404 of VOCA, Public Law 98–473, as amended, codified at 42 U.S.C. 10603, and contain information on the following: Summary of the Comments to the Proposed Program Guidelines; Background; Allocation of VOCA Victim Assistance Funds; VOCA Victim Assistance Application Process; Program Requirements; Financial Requirements; Monitoring; and Suspension and Termination of Funding. The Guidelines are based on the experience gained during the first seven years of the grant program and are in accordance with VOCA. These Final Program Guidelines supersede any Guidelines issued previously by OVC.

The Office of Justice Programs, Office for Victims of Crime, has determined that this rule is not a "significant regulatory action" for purposes of Executive Order 12866 and, accordingly, this rule was not reviewed by the Office of Management and Budget.

In addition, these Guidelines will not have a significant economic impact on a substantial number of small entities; therefore, an analysis of the impact of these rules on such entities is *not* required by the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

The collection of information requirements contained in the *Program Requirements* section was submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act, 44 U.S.C. 3504(h). Approval to use the specified reports to gather information on the use and impact of VOCA victim assistance grant funds has been given by OMB numbers 7390/2A and 7390/4.

Summary of the Comments to the Proposed Program Guidelines

On August 26, 1993, the Office for Victims of Crime (OVC) published proposed Victims of Crime Act (VOCA) victim assistance Program Guidelines in the **Federal Register**, Vol. 58, No. 164, pages 45126 through 45135. These proposed Guidelines were published for the purpose of soliciting comments on the revised rules of the VOCA victim assistance grant program from all interested individuals and organizations. OVC received 48 individual letters from interested individuals and organizations and had conversations with almost all State VOCA administrators. In total, over 200 different issues, questions, recommendations, and comments were received, which often reflected diverse views from a variety of perspectives.

OVC appreciates the time and effort each respondent invested in reading and responding to the proposed Guidelines. Although it is not possible to reply to each respondent on an individual basis, all comments were carefully considered in developing these Final Program

Guidelines. As a result, OVC rewrote, deleted, and incorporated additional information to further clarify various sections of the Guidelines. Explanation of our resolutions and final determinations is provided in the following paragraphs.

A. Background

Many representatives from sexual assault and domestic violence programs expressed concern that the Proposed Guidelines would encourage States to make mandatory the reporting of the crime as a condition of receiving services. There is no provision in VOCA mandating that crime victims report crimes to law enforcement agencies as a condition of receiving VOCA-supported assistance and services. Neither the Proposed nor these Final Program Guidelines deviates from the original purpose of VOCA—to support all victims of crime both outside of, and within, the criminal justice system. (See **Federal Register**, Vol. 52, No. 62, April 1, 1987, page 10422.)

Further, some respondents expressed concern that the proposed Guidelines symbolized a significant shift from a victim service focus to one which encouraged assistance and support with the criminal justice system. The sole purpose of the VOCA victim assistance grant program is to assist States in providing direct services to crime victims, through local public and nonprofit organizations. Direct services include crisis intervention, emergency shelter, information and referral, and group counseling, as well as those services that assist the crime victim with, and encourage willingness to participate in, the criminal justice system, such as temporary restraining orders, emergency child abuse petitions, assistance with property return, court accompaniment, assisting with victim impact statements, and case notification. OVC believes that VOCA victim assistance funds have supported a variety of services in the past and should continue to do so in the future.

B. Allocation of VOCA Victim Assistance Grant Funds

1. Allocation of Funds to States. Several respondents questioned the method for allocating grant funds. The allocation of funds to all State grantees is determined by VOCA. OVC does not have the authority under the Act, as some respondents suggested, to fund less populated States at a higher rate, to authorize a separate grant program for Native Americans, or to extend the length of the grant period to the year of award plus two years.

2. Allocation of Funds within the States. Some respondents raised the issue of seed money versus stabilizing victim services through ongoing programs, an issue which has been raised on numerous occasions. There is no provision in VOCA or the Program Guidelines to require or prohibit State grantees from using VOCA as seed money. Each State VOCA administrator is responsible for developing a funding strategy that meets the unique needs of crime victims within the State. Historically, the vast majority of subrecipients are organizations that have previously received VOCA funds. During FFY 1992, of the approximately 2,400 VOCA subrecipients, only 118 were "new" subrecipients.

Fortunately, there has been growth in victim services organizations throughout the Nation, resulting in crime victims having greater access to a wider variety of services. This growth has placed additional burdens upon State administrators to develop funding strategies that address how to most effectively distribute limited VOCA funds to reach the greatest numbers of crime victims. As a result, States are beginning to competitively award VOCA funds versus funding the same organizations every year.

In keeping with the intent of VOCA, these Final Program Guidelines will continue to give sole discretion to State administrators for (1) determining which organizations will receive funds, (2) the amount of funds to be awarded, (3) the length of time an organization will receive funding, and (4) the types of services to be provided to meet the divergent needs of their crime victims.

C. VOCA Victim Assistance Application Process—Application for Training Funds

Beginning with the FFY 1994 grant period, States may opt to retain a portion of their VOCA grant to provide State-wide or regional State training activities that improve the skills of direct service providers. OVC received a number of comments regarding this new option.

Some respondents believe that the option will be burdensome to the State VOCA administrators. First, OVC reminds States that this is an option, not a mandate. Secondly, the reporting requirements contained in this option are minimal—Subgrant Award Report information must be submitted and information regarding the training must be reported on the Performance Report. These reporting criteria apply to VOCA funds used for this option as well as all other uses of VOCA funds.

Other respondents believe that this option affords State administrators too much power. State administrators have always determined how, and for what purpose, VOCA funds will be used. With this training option, States may conduct the training themselves or work in coordination with another victim services organization or coalition. Previously, States who offered State-wide training included the cost of such training in each VOCA subrecipient's budget, thus enabling the subrecipient to attend the training. This option eliminates this extra administrative step. Additionally, this option permits States to meet the same training needs of many direct service providers in a very cost-effective way.

Many respondents requested that the match be consistent with other uses of VOCA. After careful consideration, the Final Program Guidelines will differ from the Proposed Guidelines in that the match requirement for this training option will be 20 percent.

D. Program Requirements

1. Priority Crime Victims. The letters from domestic violence and sexual assault coalitions and programs urged OVC to mandate that States be required to allocate more than 10 percent of each year's grant to priority crime victims (victims of child abuse, sexual assault, and domestic violence). Since the inception of VOCA in FFY 1986 through 1992, States have assessed the need for services and have allocated, from each year's VOCA grant, an average of 21 percent for victims of child abuse, 22 percent for victims of sexual assault, and 34 percent for victims of domestic violence. These Final Guidelines will continue to give flexibility to State VOCA administrators in allocating limited funds for victim services.

2. Underserved Crime Victims. VOCA was amended in October 1988 to require States to make VOCA victim assistance funds available to previously underserved crime victims, other than victims of child abuse, sexual assault, and domestic violence. As a result, since 1989, States have been required to allocate a minimum of 10 percent to previously underserved crime victims such as victims of assault, homicide, elder abuse, and DUI/DWI crashes.

This requirement can be met by allocating funds for one type of crime or by combining allocations for two or more types of crime victims.

States must identify underserved crime victims by type of crime in order for OVC to monitor each State's ability to fulfill this requirement. Identifying crime victims by a particular characteristic prevents the State and

OVC from determining if the underserved requirement has been met. For example, Hispanic crime victims may be underserved within a State; however, unless the State identifies the type of crime, it is impossible to determine whether the funds allocated should be used to meet a priority or the underserved requirement.

3. Underserved Requirement—Native American Crime Victims. At the time the underserved requirement was levied, States were permitted one exception to designating by type of crime—States could meet the requirement by allocating funds for services to Native Americans on reservations. This exception was adopted to encourage State administrators to make VOCA funds available for services to Native American crime victims on reservations, where few services were available.

Because of this exception, State administrators have requested OVC to interpret the underserved requirement by geographical considerations (such as rural crime victims) race, religion, sex, or other identifying characteristics such as non-English speaking crime victims, which was not the intent of the underserved requirement.

Therefore, beginning with the FFY 1994 VOCA victim assistance grant, States are required to identify underserved crime victims by type of crime only. Thus, States serving Native Americans, Hispanic, geographically isolated, etc. must identify the type of crime to which these crime victims are subjected.

Some respondents raised concerns that eliminating the Native American option for meeting the underserved requirement would encourage States to withdraw funding to Native American victim services organizations on reservations, if such services cannot help meet the underserved requirement. OVC strongly encourages State administrators to include the needs of all crime victims within their State in their funding strategy, including those crime victims residing in isolated geographical areas (such as on reservations), and to award VOCA funds appropriately.

Some State administrators expressed concern that identifying by type of crime, instead of Native Americans, would prevent them from meeting the 10 percent requirement. In an attempt to address this issue, the Final Program Guidelines permit States to allocate less than 10 percent to underserved crime victims, if they can document that a smaller percentage of funds is warranted for underserved crime victims, as described in the Final Program Guidelines.

Since 1989, OVC has undertaken an extensive effort to foster the growth of services to Native Americans on reservations and has dedicated substantial financial resources for services to crime victims through the VOCA Assistance to Victims of Federal Crime in Indian Country Discretionary Grant Program. The purpose of this discretionary program is to seed organizations offering services to crime victims on reservations with the expectation that these organizations could apply for and receive State VOCA victim assistance grant funds. OVC considers this effort successful in that, during FFY 1992, States funded 39 Native American organizations on reservations. Through this discretionary grant program, OVC will continue efforts to support services to Native American crime victims on reservations.

4. Underserved Requirement—Vulnerable Adults. Since 1989, States have been permitted to identify elder abuse as a type of crime. The Proposed Program Guidelines broadened the crime of elder abuse to include all vulnerable adults, regardless of age. However, comments from respondents indicated that the Proposed Guidelines were not clear. Therefore, these Final Program Guidelines have been revised to identify abuse of vulnerable adults as a type of crime, which may be used by States to meet the underserved requirement.

For the purpose of the VOCA victim assistance grant program, abuse of vulnerable adults occurs when an adult, who does not have the mental and/or physical capacity to manage his/her daily needs, is subjected to either physical or emotional abuse by a guardian or caretaker. This description parallels that of child abuse. This description differs significantly from other types of crime to which individuals, who are able to maintain an independent lifestyle, are subjected such as assault, robbery, fraud, etc.

5. 10 Percent Requirements for Priority and Underserved Crime Victims. Beginning with the FFY 1994 grant period, States will be given the latitude to assess the needs of crime victims within their State and allocate less than 10 percent to a specific category of priority or underserved crime victims, so long as they can demonstrate that (1) a specific category of crime victims is receiving sufficient amounts of financial assistance from the State or other funding sources, (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program, and (3) crime rates for that category of crime victims have diminished, warranting a lesser amount of VOCA funds to be allocated. If states cannot satisfy these conditions, they then must meet the 10% requirement for priority and underserved crime victims. This flexibility is offered to States who may be experiencing an influx of funds designated for a specific categories of crime victim during a grant period or who may be fortunate in that some types of crimes are very low in their State.

6. Verification of Actual Expenditures for Priority and Underserved Crime Victims. The Proposed Program Guidelines required States to verify for OJP representatives that a minimum of 10 percent of each year's grant is expended for services to each priority and underserved category of crime victims. This requirement was included in the Proposed Guidelines based upon a General Accounting Office recommendation that all recipients of VOCA victim assistance grant funds verify actual expenditures. OVC received vigorous opposition to this requirement from almost all State VOCA administrators, because of the unreasonable burden upon all recipients of VOCA funds.

Therefore, this requirement has been removed from the Final Program Guidelines.

7. Subrecipient Eligibility Requirement—Use of Volunteers. VOCA requires that "eligible crime victim assistance programs" use volunteers in providing direct services to crime victims, unless, and to the extent, that the chief executive determines that a compelling reason exists to waive the requirement. In response to requests to delete this requirement, please note that OVC does not have the statutory authority to change this legislative requirement (42 U.S.C. 1404(b)(1)(c)). OVC encourages State administrators to carefully consider waivers of this requirement.

Some respondents believe that the use of volunteers prevents victim services from being looked upon as a profession. OVC believes that volunteers in many organizations are the foundation of the victim services program. Perhaps the issue of professionalism relates more to proper training and support of both paid and volunteer staff, as opposed to whether or not the individual is paid by the agency. For example, many subrecipient organizations have a cadre of professionally trained volunteers.

Other respondents requested OVC to specify the number of hours and the value of a volunteer's time in relationship to total personnel within a subrecipient organization. State VOCA

administrators have total discretion in personnel management decisions; OVC is not authorized to regulate this matter.

8. Subrecipient Eligibility Requirement—Coordination Activities versus Coordination of Services on Behalf of Individual Crime Victims. Many respondents questioned sections of the Proposed Guidelines concerning coordination of activities. Coordinating public and private efforts on behalf of all crime victims within a community differs significantly from ensuring that an individual crime victim receives coordinated services within the community. The former is an eligibility criteria for any organization to receive VOCA funds, and as such, cannot be supported with VOCA funds. The latter is an allowable VOCA-supported activity.

VOCA identifies an "eligible crime victim assistance program" as an organization that "* * *promotes within the community served coordinated public and private efforts to aid crime victims". See section 1404.(b)(1)(D). It is expected that organizations conduct a number of coordination activities on behalf of crime victims as part of their routine activities to be eligible to receive VOCA funds, such as (1) being known to the general public and to community organizations serving crime victims; (2) having established working relationships with other service organizations, such as interagency agreements for appropriate referral of crime victims for other services; (3) serving on task forces, commissions, multidisciplinary teams, and/or other working groups on behalf of crime victims, in general; (4) being known as an advocate for crime victims within the community; (5) having developed policies, procedures, and protocols on offering victim services; (6) having developed methods to assess the needs of crime victims within their community; (7) having developed methods of assisting and supporting crime victims; and (8) having developed their own strategies for serving crime victims and training individuals to provide direct services. Organizations that do not perform these activities would have difficulty meeting the statutory requirements of an eligible crime victim assistance program.

VOCA funds are designated exclusively to provide direct services to crime victims. Therefore, they cannot, and should not, be used to help an organization meet eligibility criteria as defined by VOCA.

9. Subrecipient Eligibility Requirements—Contracted Services. Many respondents expressed concern about the use of VOCA funds to support contracted services. The intent of VOCA has always been to support services to crime victims through the staff of a subrecipient organization. It was not intended that VOCA subrecipients serve as contractors of services.

In previous years, the Program Guidelines prohibited VOCA funds from supporting professional services. The rationale behind this prohibition was that VOCA could not support administrative, indirect, and other organizational costs that were included in a loaded hourly rate, when these costs were strictly prohibited by VOCA. However, VOCA subrecipients have always been, and will continue to be, permitted to augment their staff by awarding a contract (for the equivalent of an individual's salary and fringe) to an individual or organization whose hourly or yearly rate contains no administrative and/or other VOCA-unallowable costs.

Although it was not the intent that VOCA subrecipients serve as contractors of services, OVC recognizes that, at times, it may be necessary for VOCA subrecipients to contract for specialized services. For example, if there is an infrequent need for a victim service, it may not be cost-effective for the VOCA subrecipient to employ an individual with the skills to perform the needed service, either on a part- or full-time basis. At other times, there may be emergency situations requiring victim services that are beyond the scope of the VOCA subrecipient organization. In situations such as these, VOCA subrecipients may contract for VOCA-allowable services, at the discretion of the State grantee and within the parameters of the OJP contracting rules and regulations and the OJP "Financial and Administrative Guide for Grants" (M7100.1D), effective edition. VOCA funds can only support limited use of contract services. Subrecipients are prohibited from using a majority or their entire award for contracted services that have administrative, overhead, and other indirect costs included in the hourly or daily rate. However, all contract documentation is subject to review by OVC and the Office of the Comptroller at both the State and the subrecipient level.

States who permit VOCA funds to be used for contracted services are encouraged to closely scrutinize each request to use VOCA funds to purchase services and consider the following: (1) How the need for, and frequency of, the contracted services was determined; (2) the total amount of contracted services requested within the grant period; (3) how reasonable is the hourly fee; (4) does the hourly fee contain any administrative costs; (5) what other options for service provision were available; (6) do the subrecipient's contracting procedures strictly adhere to OJP contract guidelines; and (7) the proportion of the contracted services in relation to other VOCA supported activities; etc.

When contracted services are a necessity, they are expected to comprise a very small percentage of a subrecipient's VOCA award. Thus, subrecipients cannot use their entire VOCA award or a majority of their award to purchase services. To do so raises questions such as: (1) How did the VOCA subrecipient meet the VOCA eligibility criteria of providing crime victim services, if they are contracting for a majority or all of the services; (2) if the organization providing contracted services is not eligible to receive funding, is the contract mechanism an attempt to circumvent the eligibility criteria established by VOCA; (3) if the organization providing contracted services is an eligible crime victim service provider, why doesn't that organization receive VOCA funds directly; (4) if services are continually purchased, what incentive exists for the organization to hire quality staff to provide the service within the organization; and (5) with VOCA funds being so limited and the needs of crime victims so great, how can a loaded rate that includes administrative and other indirect costs be justified?

10. Eligible Subrecipient Organizations—Program Income. A number of respondents questioned OVC's prohibiting VOCA-funded projects from generating program income. OVC has discovered during site visits that a growing number of organizations are generating program income from VOCA-funded projects and that few States and subrecipients understand the financial and monitoring burden they assume when program income is generated. OVC has four major concerns regarding Federal funds generating income for subrecipient organizations.

First, the rates being charged to crime victims are loaded hourly rates that include administrative and many types of indirect costs prohibited with VOCA grant funds. Program income that is received by the subrecipient is used to off-set unallowable VOCA costs. Further, VOCA funds were never intended to be a revenue-generating source for the subrecipient.

Second, few States and subrecipients have the capability to track program income appropriately and in accordance with Federal financial accounting

requirements. All program income generated from a VOCA-funded project is restricted to the same uses as the VOCA grant, which presents many problems for the subrecipient and the State, particularly when VOCA funds only support a portion of the counselor's time.

Third, any and all program income, no matter how large or small, must be tracked and accounted for, both at the subrecipient and State grantee level. Few subrecipients have procedures for reporting the income to the State so the State can monitor the appropriate uses of the VOCA-generated income.

Fourth, the purpose of the VOCA victim assistance grant program is to provide services to all crime victims without concern for their financial resources or availability of insurance or other third-party payors. Crime victims suffer tremendous emotional, physical, and financial losses; and it was not the intent of VOCA to exacerbate the injustice by asking the crime victim to pay—again.

OVC is mindful that some subrecipients use program income, in part, to offer additional services to crime victims, thus expanding available services beyond the VOCA-funded position. Therefore, these Final Program Guidelines will permit States and subrecipients to generate income from VOCA-funded staff time under the following conditions: (1) Only with prior approval of financial and monitoring procedures by the Office of the Comptroller; and (2) with the stipulation that no crime victim is ever denied services for lack of insurance or personal resources to cover the cost of the service.

E. Services, Activities, and Costs

1. Allowable Direct Services, Activities, and Costs—Liability Insurance. Several respondents questioned the use of VOCA funds to pay for liability insurance for direct-service providers who are subject to civil action. These Program Guidelines permit State administrators the option of including this type of insurance as an allowable cost, when it is part of an organization's benefit package for employees. OVC believes that to force direct-service providers to pay their own liability insurance, when many direct service providers receive low salaries, could have serious consequences on the quality of services provided to crime victims. NOTE: This section does not include the indirect organizational costs of building liability insurance, etc., which are not VOCA allowable costs.

2. Other Related Allowable Services, Activities, and Costs—Supervision. Several respondents requested that OVC reconsider its ruling on supervision of direct service providers as an allowable direct service. VOCA funds are not intended to defray the costs of management and administrative salaries within an organization. This is reflected in the "no administrative costs provision" of VOCA. The primary purpose of VOCA is to offer a supplement to those organizations that are able and willing to absorb the costs of supervising additional VOCA-funded staff. However, OVC realizes that the quality and quantity of direct services can be enhanced by funding a volunteer coordinator's salary or the salary of an individual who supervises interns. Therefore, these Final Program Guidelines will continue to give State grantees the latitude of determining under which circumstances VOCA funds should support supervisory activities.

Background

In 1984, VOCA established the Crime Victims Fund (Fund) in the U.S. Treasury and authorized the Fund to receive deposits from fines and penalties levied on criminals convicted of Federal crimes. This Fund provides the source of funding for carrying out all of the activities authorized by VOCA.

OVC serves as the Federal focal point for all crime victim issues, which includes ensuring that the criminal justice system addresses the legitimate rights and interests of crime victims.

OVC's program activities support this role. These Program Guidelines address the specific program and financial requirements of the VOCA crime victim assistance grant program.

OVC makes annual VOCA crime victim assistance grants from the Fund to States. The primary purposes of these grants are to support the provision of direct services to innocent victims of violent crime throughout the Nation, to assist victims of crime as soon as possible in order to reduce the severity of the psychological and emotional consequences of the victimization, to demonstrate on-going support for the victim in coping with the impact of the victimization.

VOCA gives latitude to States to determine how VOCA victim assistance grant funds will best be used within each State. However, each State grantee must abide by the minimal statutory requirements outlined in VOCA and these Program Guidelines.

Allocation of VOCA Victim Assistance Funds

A. Distribution of the Crime Victims Fund

OVC administers the deposits made into the Fund for activities, as authorized in VOCA. The amount of funds available for distribution each year is dependent upon the total deposits into the Fund during the previous Federal Fiscal Year.

The Federal Courts Administration Act of 1992 removed the cap on the Fund, beginning with Federal Fiscal Year (FFY) 1993 deposits. This Act also eliminated the need for periodic reauthorization of VOCA and the Fund by Congress. Thus, under current legislation, the Fund will receive deposits indefinitely.

Deposits into the Fund are distributed as follows:

1. The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the Federal judicial branch for administrative costs to carry out the functions of the judicial branch under Sections 3611 of Title 18, U.S. Code. [See Section 1402 (d)(1).]

2. Of the next $100,000,000 deposited in the Fund in a particular fiscal year [Section 1402 (d)(2)],

a. 49.5 percent shall be available for victim compensation grants;

b. 45 percent shall be available for victim assistance grants;

c. 1 percent shall be available for training and technical assistance services to eligible crime victim assistance programs and for the financial support of services to victims of Federal crime by eligible crime victim assistance programs; and

d. 4.5 percent shall be available for child abuse prevention and treatment grants.

3. The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for child abuse prevention and treatment grants [Section 1402 (d)(3)],

4. The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for victim assistance grants [Section 1402 (d)(4)],

5. Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed for the above purposes shall be available as follows [Section 1402 (d)(4)]:

a. 47.5 percent shall be available for victim compensation grants;

b. 47.5 percent shall be available for victim assistance grants; and

c. 5 percent shall be available for training and technical assistance

services to eligible crime victim assistance programs and for the financial support of services to victims of Federal crime by eligible crime victim assistance programs.

B. Availability of Funds

All States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Northern Mariana Islands, and Palau (hereinafter referred to as "States") are eligible to apply for, and receive, VOCA victim assistance grants. [See Section 1404(d)(1) of VOCA, codified at 42 U.S.C. 10603(d)(1).]

Funds are available for expenditure during the FFY of award and in the next FFY (the grant period). The FFY begins on October 1 and ends on September 30 of the following year. States may incur expenses retroactively to the beginning of each year's grant, October 1, even though the VOCA grant may not be awarded until later in the grant period. Under VOCA, funds that are not obligated by the end of the grant period must be returned to the General Fund of the U.S. Treasury. Therefore, States are encouraged to closely monitor the expenditure of VOCA funds at the subrecipient level and to reallocate unexpended funds prior to the end of the grant period, when possible.

C. Allocation of Funds to States

From the Fund deposits available for victim assistance grants, each State receives a base amount of $200,000, except Palau. The remaining Fund deposits are distributed to each State, based upon the State's population in relation to all other States, as determined by current census data.

D. Allocation of Funds Within the States

The Governor of each State designates the State agency that will administer the VOCA victim assistance grant program. That designated State agency establishes policies and procedures regarding the implementation and administration of the VOCA victim assistance grant program. These policies and procedures must meet the minimum requirements of VOCA and the Program Guidelines but can be more restrictive.

VOCA victim assistance funds granted to the States are to be used by eligible public and private nonprofit organizations to provide direct services to crime victims. States have sole discretion for determining which organizations will receive funds, and in what amounts, as long as the recipients meet the requirements of VOCA and the Program Guidelines.

States are encouraged to develop a VOCA program funding strategy, which should consider the following: the range of victim services throughout the State and within communities; the unmet needs of crime victims; the demographic profile of crime victims; the coordinated, cooperative response of community organizations in organizing services for crime victims; the availability of services to crime victims throughout the criminal justice process; and the extent to which other sources of funding are available for services.

States are encouraged to expand into new service areas as needs change. Many States use VOCA funds to stabilize victim services by continuously funding selected organizations. Some States end funding to organizations after several years in order to fund new organizations. Other States limit the number of years an organization may receive VOCA funds. These practices are within the State's discretion and are supported by OVC, when they serve the best interests of crime victims within the State.

States may award VOCA funds to organizations that are physically located in an adjacent State. States should use this adjacent-State approach when it is the only efficient and cost effective mechanism available for providing services to victims who reside in the awarding State. When adjacent-State awards are made, the amount of the award must be proportional to the number of victims to be served by the adjacent-State organization. OVC recommends that States enter into an interstate agreement with the adjacent State to address monitoring of the VOCA subrecipient, auditing Federal funds, managing noncompliance issues, reporting requirements, etc.

Note: States are requested to notify OVC of each VOCA award made to an organization in another State.

States may use a "conduit" organization to assist in selecting qualified subrecipients or to reduce the State's administrative burden in implementing the grant program. However, neither the "conduit" organization nor the State grantee may use any portion of the VOCA victim assistance grant for the administrative, coordination, and/or oversight activities. Further, the use of a "conduit" organization does not relieve the State from ultimate programmatic and financial responsibilities.

VOCA Victim Assistance Application Process

A. State Grant Application Process

Each year, OVC issues to each designated State agency a Program Instruction and Application Kit. The Kit contains the necessary forms and detailed information required to make application for VOCA grant funds, including the Application for Federal Assistance, Standard Form 424. The amount for which each State may apply is included in the Application Kit. At the time of application, States are not required to provide specific information on the subrecipients that will receive VOCA victim assistance funds.

In addition to the Application for Federal Assistance, States shall specify their arrangements for complying with the provisions of Circular A–128 (Audits of State or Local Government) and shall submit Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements; Civil Rights Compliance; and/or any other certifications required by OJP and OVC.

B. Application for Training Funds

The quality of victim services is directly related to appropriately trained direct service providers; therefore, skills training for direct service providers has always been an allowable cost. During previous grant periods, States awarded VOCA funds to individual subrecipient organizations to support various skills development and training activities for individual service providers. Beginning with the FFY 1994 VOCA victim assistance grant program, State grantees have the option of retaining a portion of their VOCA victim assistance grant for conducting State-wide and/or regional State training(s) of victim services staff.

This option is extended for the following reasons: appropriate training opportunities are not always available within the State boundaries; direct service providers often do not have resources to access training in other States; access to quality training by all victim services personnel could help expand quality services to crime victims throughout the State; and State-wide training is often more cost-effective than awarding VOCA funds to subrecipients to be trained in other States.

To exercise this training option, a State must submit one or more training proposals to OVC for approval, either at the time of application for the annual VOCA victim assistance grant or at least three months prior to the training events. The training activity must occur within the grant period, and all training costs must be obligated prior to the end of the grant period.

Note: VOCA grant funds cannot be used to supplant the cost of existing State administrative staff or related State training efforts, i.e., Statewide conferences, coalition conferences, etc.

The maximum amount permitted for this purpose is $5,000 or 1 percent of the State's grant, whichever is greater. The VOCA funds will be matched at 20 percent, cash or in-kind, with the source of the match described.

Note: States who choose to sponsor State-wide or regional training(s) are not precluded from awarding VOCA funds to subrecipients for other types of staff development.

Although specific criteria for applying for training funds will be given in each year's Application Kit, the following general guidance is provided, as follows:

1. The training proposal must identify the service provider needs and address a plan for meeting these needs through the training activity.

2. The training proposal must describe how the VOCA funds will be used to improve the skills of paid and volunteer direct service staff.

3. The training offered must consist of skills development activities for staff. Proposals submitted for seminars and conferences that only focus on sharing ideas, providing general information, and networking will not be approved. (An example of skills development is training focused on how to respond to a victim in crisis. This type differs significantly from being apprised of legislative updates of recent research findings regarding victims of crime.)

4. The training proposal will describe the goals of the training event, outline the curriculum, and identify costs associated with the purchase of trainers, space, conference coordination, curriculum development, materials, etc.

5. If registration fees will be charged to non-VOCA supported staff and volunteers, the proposal must identify how the program income will be used to defray the cost of the project.

Note: Program income generated from staff time is different from billing for services.

Program Requirements

A. State Eligibility Requirements

VOCA and the Program Guidelines establish minimal eligibility requirements. When applying for the VOCA victim assistance grant, States are required to give assurances that the following conditions or requirements will be met:

1. States shall certify that only eligible organizations will receive VOCA funds and that VOCA crime victim assistance funds will be used only for direct services to victims of crime. See Section 1404(b), codified at 42 U.S.C. 10603(b). Eligible organizations are those organizations that not only offer direct services to crime victims but also serve as a voice on behalf of crime victims in their community.

2. States shall certify that VOCA crime victim assistance grant funds will not be used to supplant State and local funds that would otherwise be available for crime victim services. See Section 1404(a)(2)(C) of VOCA, codified at 10603(a)(2)(C). VOCA victim assistance grant funds are intended to enhance or expand services, not substitute for other sources of funding.

Note: This supplantation clause applies to State and local public agencies only.

3. States shall certify that a minimum of 10 percent of each FFY's grant (30 percent total) will be allocated to each of the following categories of crime victims: sexual assault, domestic violence, and child abuse.

Note: This is a State requirement and does not mean that each VOCA subrecipient must meet this requirement.

These categories of crime victims are identified as "priority" victims by VOCA, because the problems experienced by these victims are often exacerbated by societal attitudes or vulnerabilities. Although "priority" victims are given special consideration in allocating VOCA funds, this designation does not imply that the needs and suffering of "priority" victims are greater than other crime victims.

Each State must meet this requirement, unless it can demonstrate to OVC that (1) a "priority" crime victim is currently receiving significant amounts of financial assistance from the State or other funding sources; (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program; *and* (3) crime rates for a "priority" crime victim has diminished.

4. States shall certify that an additional 10 percent of each VOCA grant will be allocated to victims of violent crime who were "previously underserved" with VOCA funds, other than the "priority" victims. Underserved victims include, but are not limited to, survivors of homicide victims, victims of assault, survivors of DUI/DWI crashes, etc. To meet the "previously underserved" requirement, States must identify underserved crime victims by type of crime.

Note: Each State has latitude for determining the method for identifying "previously underserved" crime victims, which may include public hearings, needs assessments, task forces, meetings with State-wide victim services agencies, etc.

Each State must meet this requirement, unless it can justify to OVC that (1) services to victims of violent crime, other than the "priority" victims, are receiving significant amounts of financial assistance from the State or other funding sources; (2) a smaller amount of financial assistance, or no assistance, is needed from the VOCA victim assistance grant program; *and* (3) crime rates for victims of violent crime, other than "priority" victims, has diminished.

States may fund services to Native Americans, elderly, Hispanic, or any other crime victims with specific demographic profiles and use those services to meet the "previously underserved" requirement. However, States must identify the type of violent crime to which the victims are subjected, such as assault, homicide, DUI/DWI, kidnapping, robbery, elder abuse, abuse of vulnerable adults, etc.

Note: For the purpose of the VOCA victim assistance grant program, abuse of vulnerable adults occurs when an adult, who does not have the mental and/or physical capacity to manage their daily needs, is subjected to either physical or emotional abuse by a guardian or caretaker.

5. States shall certify that appropriate accounting, auditing, and monitoring procedures will be employed at the State and subrecipient levels and that records are maintained to assure fiscal control, proper management, and efficient disbursement of the VOCA victim assistance funds, as per the M7100.1D, effective edition.

6. States shall certify compliance with all Federal laws and regulations applicable to Federal assistance programs and with the provisions of Title 28 Code of Federal Requirements (CFR) applicable to grants.

7. States shall certify its compliance, and its subrecipients' compliance, with the applicable provisions of VOCA and the Final Program Guidelines.

8. States shall submit required programmatic and financial reports on the use of the VOCA victim assistance funds by the deadlines prescribed by OVC. (See Program Requirements and Financial Requirements for reporting requirements and timelines.)

9. States shall ensure that no person shall, on the grounds of race, color, religion, national origin, handicap, or sex, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with VOCA victim assistance grant funds.

10. In the event a Federal or State court or administrative agency makes a finding of discrimination on the grounds of race, religion, national

origin, sex, or disability against a recipient of VOCA victim assistance funds, the State shall certify that a copy of that finding will be forwarded to the Office of Civil Rights (OCR) for OJP.

11. States shall immediately notify OVC in the event of a finding of fraud, waste, and/or abuse of VOCA funds and continue to apprise OVC of the status of on-going investigations.

12. States are encouraged to coordinate their activities with the State victim compensation agency. Coordination could include activities such as meetings; training activities for direct service providers on the general parameters of the State compensation agency's program (e.g., eligibility criteria, completion of claims, and time frames for receiving compensation); providing information on VOCA victim assistance services within the State; developing joint guidance, where applicable, on third-party payments to VOCA assistance organizations; etc.

13. States are encouraged to coordinate their activities with the Victim/Witness Coordinator staff within U.S. Attorney Offices to ensure that the Coordinators are aware of available resources for victims of Federal crime. Such coordination could include providing Coordinators with a list of VOCA-funded organizations, co-sponsoring training activities, inviting Coordinators to serve on review panels that select the organizations to receive VOCA funds, etc.

B. Subrecipient Organization Eligibility Requirements

VOCA establishes minimal eligibility criteria that must be met by all organizations that receive VOCA funds. These funds are to be awarded to subrecipients for the purpose of providing direct services to victims through their staff. Each subrecipient organization shall:

1. Be a public or nonprofit organization that provides direct services to crime victims.

2. Have a record of providing effective direct services to crime victims for a minimum of one year, have the support and approval of its services by the community, have a history of providing direct services in a cost-effective manner, and have financial support from non-Federal sources. An organization meeting these criteria is considered an "existing" organization for match purposes.

States may choose to fund organizations which have been providing direct victim services for less than one year. However, these organizations must have financial support from non-Federal sources and meet the match requirement for "new" victim services organizations.

3. Be able to meet program match requirements. Match must be committed for each VOCA-funded project, must be derived from the other resources within the organization, and cannot be derived from other Federal funds and/or sources, except as provided in Chapter 2, paragraph 14, of the M7100.1D. All funds designated as match are restricted to the same uses as the VOCA victim assistance funds and must be expended within the grant period. Thus, only services and activities that are VOCA-allowable qualify as match. Because of this requirement, VOCA subrecipients must maintain records which clearly show the source, the amount, and the period during which the match was expended. Organizations are not encouraged to commit excessive amounts of match to the VOCA-funded project.

Match requirements are as follows:

a. For an "existing" victim services organization, the match is 20 percent, cash or in-kind, of the total VOCA project (VOCA grant plus match).

b. For a "new" victim services organization the match is 35 percent, cash or in-kind, of the total VOCA project (VOCA grant plus match).

c. The match for VOCA subrecipients that are Native American tribes/organizations located on reservations, whether new or existing, is 5 percent, cash or in-kind, of the total VOCA project (VOCA grant plus match.) A Native American tribe/organization is described as any tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans. A reservation is defined as a tract of land set aside for use of, and occupancy by, Native Americans.

d. Subrecipients located in the U.S. Virgin Islands, and all other territories and possessions of the United States excluding Puerto Rico, whether considered new or existing, are not required to match the VOCA funds. See 48 U.S. Code, 1469a(d).

4. Use volunteers unless the State determines there is a compelling reason to waive this requirement. A "compelling reason" may be a statutory or contractual provision concerning liability or confidentiality of counselor/victim information, which bars using volunteers for certain positions, or the inability to recruit and maintain volunteers after a sustained and aggressive effort.

5. Promote, within the community served, a coordinated approach for serving crime victims, thus avoiding duplication of effort. Coordination may include, but is not limited to, serving on State, Federal, local, or Native American task forces, commissions and/or working groups; developing written interagency agreements; etc.—all of which contribute to better and more comprehensive services to crime victims.

Note: The examples of coordination efforts, as mentioned above, qualify an organization to receive VOCA victim assistance funds, but are not activities that can be supported with VOCA funds.

6. Assist crime victims with crime victim compensation benefits. Such assistance may include identifying and notifying crime victims of the availability of compensation, assisting them with application forms and procedures, obtaining necessary documentation, and/or checking on claim status.

7. Comply with the applicable provisions of VOCA, the Program Guidelines, and the requirements of M7100.1D, which includes maintaining appropriate programmatic and financial records that fully disclose the amount and disposition of VOCA funds received. This includes financial documentation for disbursements; daily time and attendance records specifying time devoted to VOCA allowable victim services; client files; the portion of the project supplied by other sources of revenue; job descriptions; contracts for services; and other records which facilitate an effective audit.

8. Maintain statutorily required civil rights statistics on victims served by race or national origin, sex, age, and disability, within the timetable established by the State grantee; and permit reasonable access to its books, documents, papers, and records to determine whether the recipient is complying with applicable civil rights laws.

Note: This requirement is waived when providing a service, such as telephone counseling, where soliciting the information is inappropriate or offensive to the crime victim.

9. Submit statistical and programmatic information on the use of and impact of VOCA funds, as requested and within the timetable established by the State grantee.

10. Provide services to victims of Federal crimes on the same basis as victims of State crimes. Federal crimes are prosecuted by U.S. Attorney Offices.

11. Provide a variety of services and assistance to crime victims, beyond

assistance with compensation and information/referral services.

12. Abide by any additional eligibility or service criteria as established by the State grantee.

13. Provide services, at no charge, through the VOCA-funded project. Any deviation from this provision requires prior approval by the State and OVC.

14. Maintain confidentiality of client-counselor information. VOCA subrecipients cannot use or reveal any client information without the consent of the client.

C. Eligible Subrecipient Organizations

Nonprofit and public organizations that provide direct services to crime victims are eligible to receive VOCA funds. These include, but are not limited to, rape crisis centers, domestic violence shelters, child abuse treatment facilities, centers for missing children, prosecutor offices, courts, probation and parole authorities, hospitals, public housing authorities, and religious-affiliated organizations.

Although nonprofit and public organizations may be eligible to receive VOCA funding, there are limitations on the use of VOCA victim assistance grant funds by these organizations. For example, VOCA funds cannot be used for an activity mandated by State legislation for which State or local funds are not available. However, VOCA funds can extend or enhance the legislatively mandated activities.

Note: In situations where a service is mandated by law but funds have not been appropriated, State grantees are cautioned to closely review using VOCA funds to support such activities. States may use VOCA funds to support an unfunded legislative mandate for a limited time, if the State believes that such support is essential to meeting the needs of crime victims.

In addition to victim services organizations, whose sole mission is to serve crime victims, many other public and nonprofit organizations that offer services to crime victims may be eligible to receive VOCA victim assistance grant funds. These organizations include, but are not limited to, the following:

1. Criminal justice agencies such as law enforcement organizations, prosecutor offices, courts, probation and parole authorities. However, these organizations may only use VOCA funds for services that exceed the boundaries of their mandate. For example, a police department cannot use VOCA victim assistance funds to hire law enforcement personnel for activities that a sworn law enforcement officer would be expected to provide in the normal course of his/her duties, such as crime scene intervention, questioning of victims and witnesses, investigation of the crime, and follow-on activities.

2. State and local public agencies charged with, for example, providing child and adult protective services or mental health services. Because rules and laws governing each jurisdiction differ, OVC encourages each State to closely review requests for VOCA funding by social services and public mental health organizations to ensure supplantation does not occur.

3. Religious-affiliated organizations. Religious organizations that receive VOCA funds must ensure that (1) services are offered to all crime victims without regard to religious views; (2) the receipt of services is not contingent upon participation in a religious activity or event; and (3) receipt of the funds does not create an "excessive entanglement" of church and State.

4. Other public and nonprofit organizations whose primary mission or purpose is not providing services to crime victims but who have a component of the organization that provides services to crime victims. Such organizations may include state grantees, mental health centers, hospitals, legal services agencies, coalitions, etc. These organizations must meet the same eligibility criteria as all other subrecipients.

5. State crime victim compensation agencies. Compensation programs that provide direct services such as group treatment, therapy and counseling, court accompaniment, shelter, etc. may receive VOCA funds. These services extend far beyond information/referral counseling regarding compensation benefits, and assistance with filing for compensation benefits.

Note: Because State compensation programs do not generally provide the type of direct services envisioned by the VOCA victim assistance grant program and the Program Guidelines, State grantees are encouraged to discuss with OVC any proposed award of VOCA victim assistance funds to a compensation program prior to making a final funding decision.

6. Hospitals and emergency medical facilities. Such organizations must offer counseling, support groups, and other types of victim services. Additionally, States may award VOCA funds to a medical facility for the purpose of performing forensic examinations on sexual assault victims if (1) the examination meets the standards established by the State, local prosecutor's office, or State-wide sexual assault coalition; *and* (2) appropriate crisis counseling and/or other types of victim services are offered to the victim in conjunction with the examination.

D. Ineligible Recipients of VOCA Funds

Some public and nonprofit organizations that offer services to crime victims are not eligible to receive State VOCA victim assistance funding. These organizations include, but are not limited to, the following:

1. Federal agencies, including U.S. Attorneys Offices, are not eligible to receive VOCA funds. Receipt of VOCA funds would constitute an augmentation of the Federal budget with money intended for State agencies. However, private nonprofit organizations that operate on Federal land may be eligible subrecipients of VOCA victim assistance grant funds.

2. In-patient treatment facilities that are designed to provide treatment to individuals with drug, alcohol, and/or mental health-related conditions are not eligible to receive VOCA victim assistance grant funds. In-patient facilities are not open and accessible to the general public and, therefore, do not meet the criteria for a victim services organization as intended by VOCA and these Program Guidelines.

E. Services, Activities, and Costs

Throughout the legislative history of VOCA, Congress has provided guidance on the types of direct services intended by this Act. These include those services which respond to the immediate needs of crime victims, so that the severity of the psychological trauma is reduced; assist the victim in participating in the criminal justice process; and help restore the victim's sense of dignity, self esteem, and coping mechanisms. Likewise, costs that are necessary and essential to providing these direct services may be supported with VOCA victim assistance grant funds.

1. Allowable Direct Services, Activities, and Costs. The following is a non-exhaustive listing of services, activities, and costs that are considered to be eligible for support with VOCA victim assistance grant funds within a subrecipient's organization:

a. Those services which immediately respond to the emotional and physical needs (excluding medical care) of crime victims such as crisis intervention; accompaniment to hospitals for medical examinations; hotline counseling; emergency food, clothing, transportation, and shelter; emergency legal assistance such as filing restraining orders; and other emergency services that are intended to restore the victims' sense of dignity, self esteem, and coping mechanisms.

b. Those services and activities that assist the primary and secondary

victims of crime in understanding the dynamics of victimization and in stabilizing their lives after a victimization such as counseling, group treatment, and therapy.

c. Services that are directed to the needs of the victim within the criminal justice system but not, primarily, to the needs of the criminal justice system. These services may include criminal justice advocacy, accompaniment to law enforcement offices, transportation to court, child care while in court, trial notification and case disposition information, restitution advocacy, assistance with victim impact statements, and parole notification.

d. Services which offer an immediate measure of safety to crime victims such as preventing the reburglarization by boarding-up windows, replacing or repairing locks, etc.

e. Forensic examinations for sexual assault victims only to the extent that other funding sources (such as State compensation or private insurance or public benefits) are unavailable or insufficient.

Note: State grantees should establish controls for using VOCA victim assistance funds to pay for forensic examinations in sexual assault cases. The controls should require VOCA subrecipients to investigate to what extent other resources are available to pay for the examinations; what other direct services will be offered in conjunction with the examination; and if the examination meets the evidentiary standards established by the State, local prosecutor's office, or State-wide coalition. VOCA funds cannot be used to pay for those forensic examinations that do not conform to one of these standards.

f. Costs that are necessary and essential to providing direct services such as pro-rated costs of rent, telephone service, transportation costs for victims to receive services or participate in the criminal justice system, and local travel expenses for direct service providers.

g. Services which assist crime victims with managing practical problems created by the victimization such as acting on behalf of the victim vis-a-vis other service providers, creditors, or employers; assisting the victim to recover property that is retained as evidence; assisting in filing for compensation benefits; helping to apply for public assistance; managing the overall service and informational needs on behalf of the crime victim until such time that the victim can assume these responsibilities; etc.

h. Costs that are directly related to providing direct services through staff. Such costs may consist of the following: Advertising costs associated with recruiting VOCA-funded personnel; training costs for paid and volunteer staff; salaries and fringe benefits, to include malpractice insurance for professional direct service providers who are subject to civil actions.

i. Meetings and panels where crime victims are able to confront perpetrators, if they are requested by the victim and if they offer therapeutic value to crime victims. At times, such meetings and panels can provide victims with an opportunity to tell and retell one's story, put feelings and experiences into words, and enable victims to move forward with their lives.

States that plan to fund this type of service should closely review the criteria for, and the standards governing, the service to be provided. At a minimum, the following should be considered: (1) The benefit or therapeutic value to the victim, (2) the type of crimes and subsequent victims that will benefit from the service, (3) the number of victims wishing to participate, (4) the provision of appropriate support and accompaniment for the victim, (5) appropriate "debriefing" opportunities for the victim after the meeting or panel, (6) the credentials of the facilitators, (7) the other needs of individual crime victims, and (8) the opportunity for a crime victim to withdraw from the process at any time without negative feelings or penalty. States are encouraged to discuss proposals with OVC prior to awarding VOCA funds for this type of activity.

Note: Victim-Offender mediation services in which the mediation serves to replace criminal justice proceedings cannot be supported with VOCA victim assistance funds.

2. Other Related Allowable Services, Activities, and Costs. The services, activities, and costs discussed under this section are not generally considered direct crime victim services. For example, staff training is often a necessary and essential activity to ensure that quality direct services are provided; however, it is not a direct services. Other costs described in this section may, also, be tied to direct services, although in a more remote way. Before these costs can be supported with VOCA funds, the State and subrecipient must agree that direct services to crime victims cannot be offered without support for these expenses, that the subrecipient has no other source of support for them, and that only limited amounts of VOCA funds will be used for these purposes. The following list provides examples of such items:

a. Skills training for staff. VOCA funds designated for training are to be used exclusively for developing the skills of direct service providers (paid and volunteer) so that they are better able to offer quality services to crime victims. An example of skills development is training focused on how to respond to a victim in crisis. This type of training differs significantly from being apprised of legislative updates or recent research findings regarding victims of crime.

VOCA funds can be used for training direct service providers within the subrecipient's organization, who are not supported with VOCA funds; however, priority should be given to the individuals supported with VOCA funds.

VOCA funds can purchase materials such as books, training manuals, and videos for direct service providers, within the VOCA-funded organization, and can support the costs of a trainer for in-service staff development. Although VOCA cannot support training individuals in other organizations, other staff from other organizations can be invited to attend training activities that are held for the subrecipient's staff, if no additional costs will be incurred by the VOCA-funded project.

VOCA funds can support costs associated with attendance at training activities held on a State-wide basis or within a similar geographic area, such as travel, meals, lodging, and registration fees. This limitation encourages State grantees and subrecipients to first look for available training within their immediate geographical area, as travel costs will be minimal. However, when needed training opportunities are unavailable within the immediate geographical area, State grantees may authorize the use of VOCA funds to support needed training outside of this geographical limitation.

VOCA funds cannot be used to support attendance at local, regional, or national-level conferences that do not focus on skills development for direct service providers but focus, instead, upon national issues, networking, legislative updates, presentation of research papers, etc. nor can VOCA funds support management and administrative training for executive directors, board members, and other individuals that do not provide direct services.

b. Equipment and furniture that the State determines is necessary and essential to providing or enhancing direct services to crime victims, as demonstrated by the VOCA subrecipient.

Note: VOCA funds cannot support the entire cost of equipment that is not used exclusively for victim-related activities but can support a prorated share. Additionally, subrecipients cannot use VOCA funds to purchase equipment for another organization or individual to perform a victim-related service.

Examples of allowable costs may include beepers; typewriters and word processors; video-tape cameras and players for interviewing children; two-way mirrors; and equipment and furniture for shelters, work spaces, victim waiting rooms, and children's play areas.

At times, computers may increase a subrecipient's ability to reach and serve crime victims. In such cases, VOCA subrecipients must describe to the State how the computer equipment will enhance services to crime victims; how it will be integrated into and/or enhance the subrecipient's current system; the cost of installation; the cost of training staff to use the computer equipment; the on-going operational costs, such as maintenance agreements, supplies; how these additional costs will be supported; etc.

States who authorize equipment to be purchased with VOCA funds must establish policies and procedures on the acquisition as well as the disbursement of the equipment, when the subrecipient no longer receives a VOCA grant. (See M7100.1D). Additionally, at a minimum, property records must be maintained, which contain the following: A description of the property and a serial number or other identifying number; who holds title; the acquisition date, the cost and the percentage of VOCA funds supporting purchase; the location, use, and condition of the property; and any ultimate disposition data, including the date of disposal and sale price.

c. Contracts for professional services. VOCA funds can only support limited use of contract services. Subrecipients are prohibited from using a majority or their entire award for contracted services that have administrative, overhead, and other indirect costs included in the hourly or daily rate.

VOCA grant funds are to be used within the subrecipient's organization. It was not intended that the VOCA subrecipients serve as contractors of services. However, at times, it may be necessary for VOCA subrecipients to contract for specialized services such as when there is an infrequent need for a specialized victim service. In such situations, subrecipient organizations may find that it is not cost-effective to employ an individual with the skills to perform the needed service, either on a part- or full-time basis. Additionally, there may be emergency situations requiring victim services that are beyond the scope of the VOCA subrecipient organization. Examples include the following: An attorney's fee for securing an emergency temporary retraining order; a physician's fee for conducting an forensic examination on a sexual assault victim only to the extent that other funding sources are unavailable or insufficient; emergency psychological or psychiatric services; etc.

Note: VOCA funds cannot be used to pay for legal costs or legal representation for divorces, child custody or visitation rights litigation, etc., for victims of spousal or child abuse.

d. Operating costs directly related to serving crime victims are allowable, such office supplies; equipment use fees, when supported by usage logs; printing, photocopying, and postage; brochures which describe available services; books and other victim-related materials; etc. VOCA funds may support administrative time to complete VOCA-required time and attendance sheets and programmatic documentation, reports, and statistics; administrative time to maintain crime victims' records; pro-rated share of audit costs; etc.

e. Supervision of direct service providers only to the extent that the State grantee believes that such supervision is necessary and essential to providing direct services to crime victims. For example, a State grantee may believe that using VOCA funds to support a volunteer coordinator position that is responsible for recruiting, screening, training, supervising, and maintaining volunteers is necessary and essential as well as being a cost-effective way of serving more crime victims.

f. Repair and/or replacement of an essential item of a victim service that contributes to maintaining a healthy and/or safe environment, such as a furnace in a shelter. State grantees are cautioned to scrutinize each request for expending VOCA funds for such purposes to ensure the following: (1) that the building is owned by the subrecipient organization and not rented/leased, (2) all other sources of funding have been exhausted, (3) there is no available option for providing the service in another location, (4) that the cost of the repair or replacement is reasonable considering the value of the building, and (5) the cost of the repair or replacement is pro-rated among all sources of income. States are encouraged to discuss individual requests for substantial repairs of essential service components with OVC.

g. Activities and costs related to describing the services available to crime victims within the community such as presentations, brochures, newspaper articles, etc.

3. Unallowable Services, Activities, and Costs. The following services, activities, and costs, although not exhaustive, cannot be supported with VOCA victim assistance grant funds:

a. Crime prevention activities and other activities intended to educate the community on the prevention of crime and to raise the public's consciousness regarding crime.

b. Lobbying and administrative advocacy for victim legislation or administrative reform, whether conducted directly or indirectly.

c. Perpetrator rehabilitation and counseling. Subrecipients cannot knowingly use VOCA funds to offer rehabilitative services to offenders. Likewise, VOCA funds cannot support services to incarcerated individuals, even when the service pertains to the victimization of that individual.

d. Needs assessments, surveys, evaluations, studies, and research efforts conducted by individuals, organizations, task forces, special commissions, etc. which study and/or research a particular crime victim issue.

e. Activities that are directed at prosecuting an offender and/or improving the criminal justice system's effectiveness and efficiency such as witness notification and management activities; expert testimony at a trial; victim/witness expenses such as travel to testify in court and subsequent lodging and meal expenses; victim protection costs; etc., which are considered part of the criminal justice agency's responsibility.

f. Fundraising activities.

g. Indirect organizational costs such as liability insurance on buildings and vehicles; capital improvements; security guards and body guards; property losses and expenses; real estate purchases; mortgage payments; construction costs; etc.

h. Use of assistance funds for reimbursing crime victims for expenses incurred as a result of a crime or to supplement crime victim compensation awards to victims of crime for such costs as funeral expenses, lost wages, medical bills, etc.

i. Vehicles, purchased or leased. State grantees who believe that crime victims will not be able to receive services without VOCA support for a vehicle are urged to discuss the situation with OVC. Unless OVC gives prior approval to use VOCA to support a vehicle, such an expense is unallowable.

j. Nursing home care, home health-care costs, in-patient treatment costs, hospital care, and other types of emergency and non-emergency medical and/or dental treatment. VOCA victim assistance grant funds cannot support medical costs regardless of whether they are a result of a victimization or not. EXCEPTION: See Program Requirements, *E. Allowable Direct Services, Activities, and Costs*, 1.e., regarding forensic examinations for sexual assault victims.

k. Relocation expenses such as moving expenses, security deposits on housing, ongoing rent, mortgage payments; However, VOCA funds may be used to support staff time in locating resources to assist victims with these expenses.

l. Professional dues and memberships in the name of a specific individual. However, VOCA funds may purchase organizational memberships, or a membership, for example, in the name of the "Executive Director," if such membership will offer needed, timely, and relevant information on victim services and issues that assist direct service providers to provide quality services.

m. Salaries, fees, and reimbursable expenses associated with administrators, board members, executive directors, consultants, coordinators, and other individuals unless, and to the extent that, these expenses are incurred while providing direct services to crime victims.

n. Development of protocols, interagency agreements, and other working agreements that benefit crime victims, in general, throughout the community. These activities are considered examples of the types of activities that organizations undertake as part of their role as a victim services organization, which in turn qualifies them as an eligible VOCA subrecipient. As such, VOCA funds cannot be used to support these activities.

o. The costs of sending individual crime victims to conferences. The purpose of the VOCA victim assistance grant program is to maximize the impact of the limited VOCA funds by expanding the number of direct service providers available to offer services. VOCA funds are insufficient to support individual crime victims' needs and cannot be used for this purpose.

p. Attendance at national-level conferences and symposia that have as a primary focus discussions and presentations on national issues, networking, sharing ideas, presenting research findings, etc., even when held in a subrecipient's community. Conferences that focus on skills development components that enable service providers to offer quality services to crime victims may be allowable. (See previous guidance located at Program Requirements, *E. Services, Activities, and Costs*, 2.a.)

q. Development of training manuals and/or extensive training materials. Viable crime victim organizations that receive VOCA funds should, prior to receiving a VOCA grant, offer training and materials for their staff.

F. Program Reporting Requirements

States will be required to adhere to all reporting requirements and times for submitting the required reports, as indicated below. Failure to do so may result in a hold being placed on the drawdown of the current year's funds, a hold being placed on processing the next year's grant award, or can result in the suspension or termination of a grant.

1. Subgrant Award Reports. States are required to submit to OVC, within 30 days of making the subaward, Subgrant Award Report information for each subrecipient of VOCA victim assistance grant funds. Subgrant Award Report information is to be submitted to OVC via the automated subgrant dial-in system, whenever possible. When not possible, State grantees must complete and submit the Subgrant Award Report form, OJP 7390/2A, for each VOCA subrecipient.

If the Subgrant Award Report information changes by the end of the grant period, States must inform OVC of the changes, either by revising the information via the automated subgrant subdial system, by completing and submitting to OVC a revised Subgrant Award Report form, or by making notations on the State-wide database report and submitting it to OVC. The total of all Subgrant Award Reports submitted by the State must agree with the Final Financial Status Report (269A) that is submitted at the end of the grant period.

A Subgrant Award Report is required for each organization that receives VOCA funds and uses the funds for employee salaries, fringe, supplies, rent, etc. This requirement applies regardless of whether the mechanism by which the State awards VOCA funds to a subrecipient is called a grant, contract, or subgrant and regardless of the type of organization (public or nonprofit) that receives the funds.

Subgrant Award Reports are not to be completed for organizations that serve only as conduits for distributing VOCA funds or for organizations that provide limited, emergency services, on an hourly rate, through VOCA subrecipient organizations. All services and activities purchased on an hourly rate with VOCA funds are to be included in the subrecipient's Subgrant Award Report.

2. Performance Report. Each State is required to submit specific end-of-grant data on the OVC-provided Performance Report, form No. OJP 7390/4, no later than 90 days after each VOCA victim assistance grant ends.

G. Additional Program Requirements

1. Civil Rights—Prohibition of Discrimination for Recipients of Federal Funds. No person in any State shall, on the grounds of race, color, religion, national origin, sex, or disability be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity receiving Federal financial assistance, pursuant to the following statutes and regulations: Section 809(c), Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3789d, and Department of Justice Nondiscrimination Regulations, 28 CFR part 42, Subparts C, D, E, and G; Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Subtitle A, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq. and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681–1683; and the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101, et seq.

2. Confidentiality of Research Information. Except as otherwise provided by Federal law, no recipient of monies under VOCA shall use or reveal any research or statistical information furnished under this program by any person, and identifiable to any specific private person, for any purpose other than the purpose for which such information was obtained, in accordance with VOCA. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding. [See Section 1407(d) of VOCA, codified at 42 U.S.C. 10604.]

This provision is intended, among other things, to assure the confidentiality of information provided by crime victims to counselors working for victim services programs receiving VOCA funds. Whatever the scope of

application given this provision, it is clear that there is nothing in VOCA or its legislative history to indicate that Congress intended to override or repeal, in effect, a State's existing law governing the disclosure of information, which is supportive of VOCA's fundamental goal of helping crime victims. For example, this provision would not act to override or repeal, in effect, a State's existing law pertaining to the mandatory reporting of suspected child abuse. See *Pennhurst State School and Hospital* v. *Halderman, et al.*, 451 U.S. 1 (1981). Furthermore, this confidentiality provision should not be interpreted to thwart the legitimate informational needs of public agencies. For example, this provision does not prohibit a domestic violence shelter from acknowledging, in response to an inquiry by a law enforcement agency conducting a missing person investigation, that the person is safe in the shelter. Similarly, this provision does not prohibit access to a victim service project by a Federal or State agency seeking to determine whether Federal and State funds are being utilized in accordance with funding agreements.

Financial Requirements

State grantees and subrecipients of VOCA victim assistance funds shall adhere to the financial and administrative provisions set forth in the OJP "Financial and Administrative Guide for Grants", M7100.1D (effective edition). The following describes the audit requirements for State grantees and subrecipients, the completion and submission of Financial Status Reports, and actions that result in termination of advanced funding.

A. Audit Responsibilities for State Grantees

Pursuant to OMB Circular A–128 (Audits of State or Local Governments), grantees that receive $100,000 or more in Federal financial assistance in any fiscal year must have a single audit for that year. State governments receiving at least $25,000, but less than $100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. State and local governments receiving less than $25,000 in any fiscal year are exempt from audit requirements.

B. Audit Responsibilities for Subrecipients

Pursuant to OMB Circular A–128 (Audits of State or Local Governments), local governments that receive $100,000 or more in Federal financial assistance in any fiscal year shall have a single audit for that year. Local governments receiving at least $25,000, but less than $100,000, in a fiscal year have the option of performing a single audit or an audit of the Federal program, as required by the applicable Federal laws and regulations. Local governments receiving less than $25,000 in any fiscal year are exempt from audit requirements.

Institutions of higher education and other nonprofit organizations that receive $100,000 or more a year in Federal financial assistance shall have an audit made in accordance with OMB Circular A–133. Organizations and institutions that receive at least $25,000, but less than $100,000, in a fiscal year shall have an audit made in accordance with OMB Circular A–133 or an audit of the Federal program. Institutions and organizations receiving less than $25,000 in any fiscal year are exempt from audit requirements.

C. Financial Status Report for State Grantees

A Financial Status Reports (269A) are required from all State grantees. A Financial Status Report shall be submitted to the Office of the Comptroller for each calendar quarter in which the grant is active. This Report is due even though no obligations or expenditures were incurred. Financial Status Reports shall be submitted to the Office of the Comptroller, by the State, within 45 days after the end of each subsequent calendar quarter. Calendar quarters end March 31, June 30, September 30, and December 31. A Final Financial Status Report is due 90 days after the end of the VOCA grant period, no later than December 31.

D. Termination of Advance Funding to State Grantees

If the State grantee receiving cash advances by Letter of Credit or by direct Treasury check demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between cash advances and disbursement, OJP may terminate advance funding and require the State to finance its operations with its own working capital. Payments to the State will then be made by the direct Treasury check method, which reimburses the State for actual cash disbursements.

Monitoring

A. Office of the Comptroller

The Office of the Comptroller conducts periodic reviews of the financial policies, procedures, and records of VOCA grantees and subrecipients. Therefore, upon request, States and subrecipients must give authorized representatives the right to access and examine all records, books, papers, case files, or documents related to the grant and all subawards.

B. Office for Victims of Crime

Beginning with the FFY 1991 grant period, OVC implemented an on-site monitoring plan in which each State grantee is visited a minimum of once every three years. While on site, OVC personnel will expect to review various documents and files such as (1) financial and program manuals and procedures governing the VOCA grant program; (2) financial records, reports, and audit reports for the State grantee and all VOCA subrecipients; (3) the State's VOCA application kit, procedures, and guidelines for subawarding VOCA funds; and (4) all other State and subrecipient records and files.

Additionally, OVC will visit selected subrecipients and will review similar documents such as (1) financial records, reports, and audit reports; (2) policies and procedures governing the organization and the VOCA funds; (3) programmatic records of victims' services; and (4) timekeeping records and other supporting documentation for costs supported by VOCA funds.

Suspension and Termination of Funding

If, after notice and opportunity for a hearing, OVC finds that a State has failed to comply substantially with VOCA, the M7100.1D, the Final Program Guidelines, or another implementing regulation or requirements, OVC may suspend or terminate funding to the State and/or take other appropriate action. At such time, State grantees may request a hearing on the justification for the suspension and/or termination of VOCA funds. VOCA subrecipients, within the State, may not request a hearing at the Federal level. However, VOCA subrecipients who believe that the State has violated a program and/or financial requirement are not precluded from bringing the alleged violation(s) to the attention of OVC.

Carolyn A. Hightower,

Acting Director, Office for Victims of Crime, Office of Justice Programs.

[FR Doc. 94–5468 Filed 3–9–94; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs

AGENCY: Bureau of International Labor Affairs, Labor.

ACTION: Announcement of public hearings.

SUMMARY: This document is an announcement of public hearings to be held by the Department of Labor for the purpose of gathering factual information regarding child labor practices throughout the world. The hearing will be held on Tuesday, April 12, 1994, at the Department of Labor, room N–3437, beginning at 10 am. The hearing will be open to the public. The Department of Labor is now accepting requests from all sectors to provide oral testimony at the hearing. Each person or organizational representative selected will be provided ten minutes for oral testimony. The Department is not able to provide financial assistance to those wishing to travel to attend the hearing. Those unable to attend the hearing are invited to submit written testimony.

Specifically, the international child labor study of the Bureau of International Labor Affairs is seeking written and oral testimony concerning children working in manufacturing and mining industries which export to the United States. The Department of Labor is currently undertaking a Congressionally-mandated review to identify any foreign industry and their host country that utilize child labor in the export of manufactured products from industry or mining to the United States (pursuant to the 1994 Department of Labor Appropriations Bill—Pub. L. 103–112). Information provided at the hearing will be considered by the Department of Labor in preparing its report to Congress. Testimony should be confined to the specific topic of the study. The Department's report is due to be presented to Congress by July 15, 1994. Individuals or organizations interested in testifying at the international child labor hearing, please call the Child Labor Study office at (202) 208–6152 to be put on the roster.

DATES: The hearing is scheduled for Tuesday, April 12, 1994. If necessary to accommodate the requests received, a second day of hearings will be held on Wednesday, April 13. Presenters will be required to submit five (5) written copies of their oral testimony to the Child Labor Study office by 10 am, April 11. The record will be kept open for additional written testimony until April 18, 1994.

ADDRESSES: Written testimony should be addressed to the International Child Labor Study, Bureau of International Labor Affairs, rm. S–1308, U.S. Department of Labor, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Sonia A. Rosen, International Child Labor Study, Bureau of International Labor Affairs, room S–1308, U.S. Department of Labor, Washington, DC 20210, telephone: (202) 208–6152; fax (202) 219–4923.

SUPPLEMENTARY INFORMATION: The Senate Appropriations Committee report states: [T]he Committee notes that in many developing countries children represent a substantial portion of the work force and can be found in such industries as glass, metal works, textiles, mining, and fireworks manufacturing. According to UNICEF and the International Labor Organization hundreds of millions of children worldwide under the age of 15 are employed.

The Committee understands that child labor laws in many countries around the globe are often not enforced or are circumvented by foreign manufacturers. The Committee also understands that many products made by child labor are being imported into the United States. The Committee believes that (1) since the passage of the Fair Labor Standards Act of 1938, Congress' intent has been to keep the streams of labor undefiled by the products of child labor; (2) American consumers do not want to provide a market for goods produced by the sweat and toil of children; and that (3) adult workers in the United States should not have their jobs imperiled by imports produced by child labor in developing countries. The Committee also believes, however, that more information is needed about the extent of the problem and what foreign industries are exporting products made whole or in part by child labor to the United States.

The Committee, therefore, * * * directs the Secretary of Labor to undertake a review to identify any foreign industry and their host country that utilize child labor in the export of manufactured products from industry or mining to the United States. In making this review, the Secretary is directed to utilize all available information, including information made available by the International Labor Organization and human rights organizations. The Secretary is directed to report his findings to the Committee no later than July 15, 1994.

All written or oral comments submitted pursuant to the public hearing will be made part of the record of review referred to above and will be available for public inspection.

Signed at Washington, DC this 2d day of March, 1994.

Jack Otero,

Deputy Under Secretary for International Affairs.

[FR Doc. 94–5624 Filed 3–9–94; 8:45 am]

BILLING CODE 4510–28–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1994.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 21, 1994.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 22nd day of February, 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Black & Becker Co. (U.S.), Inc. (Workers).	Columbus, OH	02/22/94	02/10/94	29,520	Reconditioned Houseware Appliances.
IBM (Workers)	Houston, TX	02/22/94	02/05/94	29,521	Computers, Software, Etc.
Bull HN Information Systems (Workers)	Billerica, MA	02/22/94	02/04/94	29,522	Computers.
Scanti Lingerie Co., Inc. (Co.)	Battleboro, NC	02/22/94	02/04/94	29,523	Ladies' and Children's Panties.
Vygen Corp. (Co.)	Ashtabula, OH	02/22/94	02/07/94	29,524	PVC Resins.
Seattle Shake & Shingle (Co.)	Forks, WA	02/22/94	02/07/94	29,525	Shakes and Shingles.
Hollywood Shake, Inc. (Co.)	Forks, WA	02/22/94	02/08/94	29,526	Shakes and Shingles.
D&R Cedar Products, Inc. (Co.)	Forks, WA	02/22/94	02/08/94	29,527	Cedar Shakes and Shingles.
Breyers Company (Workers)	Charlotte, NC	02/14/94	01/14/94	29,528	Ice Cream.
Zinc Corp. of America (Workers)	Palmerton, PA	02/22/94	02/03/94	29,529	Zinc Oxide.
Northwest Alloys, Inc. (Workers)	Addy, WA	02/22/94	02/07/94	29,530	Magnesium.
Aeronca, Inc. (Co.)	Middletown, OH	02/22/94	02/08/94	29,531	Static Airframe Structures.
Northern Telecom, Inc. (Co.)	Stone Mountain, GA	02/22/94	02/07/94	29,532	Circuit Boards & Cabinets.
Oxford of Kingstree (Co.)	Kingstree, GA	02/18/94	01/18/94	29,533	Ladies' Sportswear.
Cowden Manufacturing Co. (Co.)	Lancaster, KY	02/22/94	01/26/94	29,534	Denim Pants.
Texaco, Inc. (Workers)	Houma, LA	02/22/94	02/01/94	29,535	Oil.
Dee Fashions (Workers)	Centralia, PA	02/22/94	02/11/94	29,536	Ladies' Dresses.
Hembree Well Service, Inc. (Workers)	Ness City, KS	02/22/94	02/04/94	29,537	Oil.
Brown Shoe Co. (ACTWU)	Piedmont, MO	02/22/94	01/31/94	29,538	Sole Shoes for Brown Shoe Plants.
Moog Automotive (UAW)	St. Louis, MO	02/22/94	02/04/94	29,539	Automobile Parts.
Brown Group Retail, Inc. (Workers)	St. Louis, MO	02/22/94	02/04/94	29,540	Men, Women & Children Footwear.

[FR Doc. 94–5620 Filed 3–9–94; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–29,261]

CPC International, Inc.; Best Foods, Inc.; Warminster, PA; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Correction

This notice corrects the notice for petition TA–W–29,261 which was published in the **Federal Register** on December 14, 1993 (58 FR 65405) in FR Document 93–30435. A printing error concerning city and state location appears in the 5th line of the second column in the appendix table on page 65405. The name should read "Warminster, Pennsylvania" instead of "Englewood Cliff, New Jersey". Also, column one should read CPC International, Inc. Best Foods (Wkrs).

Signed in Washington, DC, this 25th day of February, 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–5621 Filed 3–9–94; 8:45 am]
BILLING CODE 4510–30–M

[TA–W–28,981]

Cypress Sierrita Corp.; Green Valley, AZ; Notice of Negative Determination On Reconsideration

On December 6, 1993, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of Cypress Sierrita Corporation in Green Valley, Arizona. The notice was published in the **Federal Register** on December 21, 1993 (58 FR 67422).

The Department's earlier denial was for workers producing copper concentrate and copper cathode. These products were sold to Cyprus Copper Marketing Corporation which does not import copper.

Investigation findings show that the molybdenum oxide workers at Cyprus Sierrita in Green Valley, Arizona were certified earlier under TA–W–28,718.

New findings on reconsideration, however, show that the molybdenum workers are not separately identifiable from the other workers from the mining of the ore through the beneficiating process at the mill. The workers become separately identifiable by product only at a later stage—the roasting process.

Accordingly, all workers engaged in employment from the mining of the raw ore through the floatation process in the mill are already covered under TA–W–28,718.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for workers producing copper cathodes and copper concentrates. However, all other workers in the mining, blasting and floatation activities including hauling and other support activities were already covered for certification under TA–W–28,718.

Singed at Washington, DC, this 25th day of February 1994.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 94–5622 Filed 3–9–94; 8:45 am]
BILLING CODE 4510–30–M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of February, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the

separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–29,342; Elliott Turbomachinery Co., Jeannette, PA

TA–W–29,159; Robert Bosch Fluid Power Corp., Zanesville, OH

TA–W–29,206; Vought Aircraft Co., Dallas, TX

TA–W–29,344; Alliant Techsystems, Inc., Hopkins, MN

TA–W–29,212; Elastimold, Spring Lake, MI

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–29,451; Houston Data Center, Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,289; Texas Instrument, Abilene, TX

The investigation revealed that the subject firm transferred production of missile guidance system components domestically. All of the production at the subject plant is integrated into production at other facilities of Texas Instruments.

TA–W–29,218; McDonnell Douglas Helicopter Systems, Culver City, CA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–29,024; Tollycraft Yachts Corp., Kelso, WA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,156; Lykes Brothers Steamship Co., Inc., New Orleans, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,261; C.P.C. International, Inc., Best Foods Plant, Warminster, PA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period for certification.

TA–W–29,411; Allied Signal Technical Services, Corp., Livermore, CA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,067; Olympic Plating Industries, Inc., Canton, OH

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,452; Delta–X Corp., Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,407; Digicon Geophysical Corp., Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–29,296; Marathon Oil Co., Indiana Refining Div., Indianapolis, IN

U.S. imports of refined petroleum products declined absolutely and relative to domestic shipments in the twelve month period October 1992–September 1993 as compared to the same period a year earlier.

Affirmative Determinations for Worker Adjustment Assistance

TA–W–29,245; Dupont Printing and Publishing, Parlin, NJ

A certification was issued covering all workers separated on or after November 10, 1992.

TA–W–29,356; Cooper Industries USD Connection, Laurence Harbor, NJ

A certification was issued covering all workers separated on or after December 9, 1992.

TA–W–29,133; Victoreen, Inc., Cleveland, OH

A certification was issued covering all workers separated on or after October 7, 1992.

TA–W–29,428; Carter South Co., Blackshear, GA

A certification was issued covering all workers separated on or after January 12, 1993.

TA–W–29,181; SNS Plastics, Waldoboro, ME

A certification was issued covering all workers separated on or after October 20, 1992.

TA–W–29,401; Swingter Co., Ocean Springs, MS

A certification was issued covering all workers separated on or after January 4, 1993.

TA–W–29,227; The Bates Manufacturing Co., Hackettstown, NJ

A certification was issued covering all workers separated on or after October 29, 1992.

TA–W–29,392, TA–W–29,393; Primrose Bedspread Corp., Passaic, NJ Clifton Comforter Corp., Passaic, NJ

A certification was issued covering all workers separated on or after December 22, 1992.

TA–W–29,415; Smith Energy Services, Odessa, TX

A certification was issued covering all workers separated on or after January 15, 1993.

TA–W–29,354; General Motors Corp., Delco Chassis Div., Livonia, MI

A certification was issued covering all workers engaged in the production of bumpers separated on or after July 1, 1993. Also, all workers at the suspension component line are denied.

TA–W–29,423; J.K. Operating Corp., Kulpmont, PA

A certification was issued covering all workers separated on or after January 12, 1993.

TA–W–29,372; Hubbell-Bell, Inc., Fogelsville, PA

A certification was issued covering all workers engaged in employment related to the production of weatherproof electrical products separated on or after December 21, 1992. The foregoing determination does not apply to workers engaged in the production of electrical modular tubing (conduits) of fittings.

TA–W–29,438; Canal Industries, Inc., Stigler, OK

A certification was issued covering all workers separated on or after January 11, 1993.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of February, 1994.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally

or partially separated from employment and either—

(A) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(B) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased,

(C) That the increase in imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(2) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

NAFTA–TAA–00009; Uniroyal Goodrich Tire Co., Woodburn, IN

The investigation revealed that criteria (2) and criteria (4) were not met. Sales and production increased at the subject plant in 1993 compared to 1992. There was no shift in production of tires from the workers' firm to Canada or Mexico during the relevant period.

NAFTA–TAA–00005; A.C.A. Lumber, Inc., Beaver, WA

The investigation revealed that criteria (3) and criteria (4) were not met. There was no shift in production of alder lumber from the workers' firm to Canada or Mexico during the relevant period. Also, increased imports from Canada or Mexico did not contribute importantly to the worker separations & the sales & production declines at A.C.A. Lumber, Inc.

NAFTA–TAA–00007; Worzalla Publishing Co., Inc., Worzalla-East, Inc., Eastontown, NJ

The investigation revealed that criteria (3) and criteria (4) were not met. There was no shift in production of alder lumber from the workers' firm to Canada or Mexico during the relevant period. Also, increased imports from Canada or Mexico did not contribute importantly to the worker separations & the sales & production declines at Worzalla-East, Inc.

Affirmative Determination NAFTA–TAA

NAFTA–TAA–00004; Seattle Shake and Shingle, Forks, WA

A certification was issued covering all workers separated on or after December 8, 1993.

I hereby certify that the aforementioned determinations were issued during the month of February, 1994. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: March 2, 1994.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 94–5623 Filed 3–9–94; 8:45 am]

BILLING CODE 4510–30–M

LEGAL SERVICES CORPORATION

Funding Availability for Law School Civil Clinical Programs

AGENCY: Legal Services Corporation.

ACTION: Announcement of funding.

SUMMARY: The Legal Services Corporation (LSC or Corporation) is accepting applications for its eleventh consecutive Law School Civil Clinical Program (LSCCP) grant competition. The purpose of this grant competition is to expand relationships between legal services programs and law schools in meeting the challenges of equal access to justice. Proposed activities for the 1994–95 LSCCP must demonstrate a high degree of collaboration between law schools and legal services programs to meet the legal needs of low-income persons. For academic year 1994–95, Congress has appropriated $1.402 million for law school clinics.

All grants will be awarded pursuant to the authority conferred on LSC by Section 1006(a)(1)(B) and 1006(a)(3) ((42 U.S.C. 2996e(a)(1)) of the Legal Services Corporation Act of 1974, as amended (LSC Act). Grants funds for the 1994–95 LSCCP will be distributed on a one-time, non-recurring basis. Grant awards will be made in amounts of up to $100,000, however, LSC may consider larger grants under exceptional circumstances. Grant terms will be for a period of one year and grant activities must commence by September 30, 1994.

DATES: Grant proposals must be received by the Office of Program Services by 5:00 p.m. (EST) on April 18, 1994.

ADDRESSES: Law School Civil Clinical Program, Office of Program Services (Attn: Janice P. White), Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002–4250.

FOR APPLICATIONS OR FURTHER INFORMATION CONTACT: Leslie Q. Russell, Manager, or Janice P. White, Assistant to Manager, Program Support and Technical Assistance Division, Office of Program Services, (202) 336–8908.

SUPPLEMENTARY INFORMATION: Since 1984, the Corporation has conducted a law school clinical grant competition. LSC believes that new and innovative collaborative approaches must be developed to meet the challenges of equal access to justice in the 1990's. Thus, LSC has enhanced the scope of the 1994–95 law school clinical program.

The broad goals of the 1994–95 LSCCP are to:

1. Increase collaboration between law schools and legal services programs;
2. Encourage law schools to become more involved in addressing the legal problems of the poor; and
3. Develop among law students an awareness of legal issues affecting low-income people and appropriate advocacy skills to address those issues.

The 1994–95 LSCCP will be administered under three (3) new categories. They are: (1) Teaching Sabbaticals; (2) Legal Services Summer Fellowships; and (3) Innovative Clinical Programs.

Under the Teaching Sabbatical category, the Corporation encourages legal services program attorneys to serve as full-time clinic instructors for law students in a law school clinical program for at least one quarter or one semester, but for no longer than one academic year.

Under the Legal Services Summer Fellowships category, the Corporation is interested in the establishment of a fellowship program in which law students would be placed in a legal services program for a summer with appropriate training and supervision, while also receiving academic credit or fulfilling law school pro bono requirements.

LSC recognizes that many ideas could improve the law school's relationship with the legal services community, but may not fit into the above categories. Thus, under the Innovative Clinical Programs category, the Corporation encourages new and innovative approaches to legal services delivery that are not currently being provided by law school clinics or legal services programs. These innovative projects must show a close collaboration between the law school clinic and the legal services program. Such programs could be on either a local, state or national level.

Eligibility: (1) All law schools and consortia of law schools that are currently accredited by the American Bar Association or accredited for purposes of bar admission by the state bar associations of the states in which the law schools are located are eligible to apply; (2) any LSC-funded legal

services program is eligible to apply; (3) any 501(c)(3) organization with the capability to oversee a summer fellowship program is eligible to apply; (4) no 1994–95 LSCCP grant funds, in any category, may be used to fund conferences or research projects. This limitation does not restrict use of grant funds for meetings or trainings necessary to support a project, nor does it restrict funds being used for research related to representation or advocacy on behalf of eligible clients; and (5) the application should demonstrate that existing law school or legal services program support for law school clinical efforts will be continued, and that any LSC funds granted will be used solely for new or expanded operations.

Awards Process: Grant proposals will be carefully evaluated by an advisory panel of peer reviewers from the law school community, the legal services community, and LSC staff. Awards will be based on the merit of the proposal and the extent to which it meets the goals of the LSCCP. An applicant may submit a grant proposal for one category only.

The following selection criteria will be used to conduct the review:

1. Collaboration With Legal Services Programs

The applicant should detail the proposed working relationship between the law school clinic and the legal services program that will be involved in the project.

2. Project Goals and Objectives

The applicant should set forth the project's goals and objectives which will be reviewed in terms of the quality of the proposed project, evidence of the client need to be served, and the long term benefits to the organization and the legal services community.

3. Applicant's Capability to Accomplish Objectives

The applicant should detail its structure and staffing, past history with similar activities, and other work on behalf of the low-income eligible client community.

4. Community Involvement and Support

The applicant should state how the proposed activity will complement existing legal services delivery provided in its area.

5. Project Feasibility

The applicant should address the reasonableness of the proposed costs in terms of the benefits to be derived and the relationship to the project's overall goals.

Dated: March 4, 1994.

Charles T. Moses, III,

Deputy Director, Office of Program Services.

[FR Doc. 94–5481 Filed 3–9–94; 8:45 am]

BILLING CODE 7050–01–D

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Thermal Systems; Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings of the Special Emphasis Panel in Chemical and Thermal Systems (#1190).

Date & Time: March 18, March 21–22, March 25, and April 25–26, 1994; 8:30–5 each day.

Place: Rms. 530 and 580.

Agenda: Review and evaluate nominations for the NSF Young Investigator and Research Initiation Awards Program as part of the selection process for awards.

Date & Time: March 21, 1994; 8:30–5 p.m.

Place: Rm. 530, NSF.

Agenda: Review and evaluate nominations for the Electric Power Institute (EPRI).

Program as part of the selection process for awards.

Date & Time: May 2–3, 1994; 8:30–5 p.m.

Place: Rm. 530, NSF.

Agenda: Review and evaluate nominations for the NSF Research Equipment Grants Program as part of the selection process for awards.

Contact: Division of Chemical and Transport Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1371.

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 nomincations and 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: March 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–5553 Filed 3–9–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design & Manufacturing Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Design & Manufacturing Systems (1194).

Date and Time: March 30, 1994, 8:30 a.m. to 5 p.m..

Place: 4201 Wilson Boulevard, Rooms 530 & 580, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. K. (Cheena) Srinivasan, Program Director, Manufacturing Processes and Equipment, National Science Foundation, 4201 Wilson Boulevard, room 550, Arlington, VA 22230, Telephone: (703) 306–1328.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Initiation Award proposals as part of the selection process for awards.

Reason for Closing: The nominations 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 USC 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–5551 Filed 3–9–94; 8:45 am]

BILLING CODE 7555–01–M

Avisory Committee for Education and Human Resources; 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 Committee for Education and Human Resources; Committee of Visitors.

Date and Time: March 29, 1994, 8:30 a.m.–5:30 p.m.

Place: Room #830, 4201 Wilson Blvd., Arlington, VA

Type of Meeting: Closed.

Contact Person: Karolyn Eisenstein, Program Director, UFE, Division of Undergraduate Education, room 835, National Science Foundation, 4201 Wilson Blvd., Arlington, VA Telephone: (703) 306–1670

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposal, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Undergraduate Faculty Enhancement (UFE) Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal

information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: March 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–5554 Filed 3–9–94; 8:45 am]

BILLING CODE 7555–01–M

Division of Environmental Biology; 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 Committee for Ecological Studies.

Date & Time: March 30, 1994, 3 pm–5 pm; March & April 1, 1994, 8:30 am–5 pm each day.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Richard Dame, Program Director, Ecological Studies Cluster, 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: Open session: Wednesday, March 30, 1994, 3 pm–5 pm. To discuss Ecological Studies Cluster mission and goals.

Closed session: Thursday & Friday, March 31 & April 1, 1994, 8:30 am–5 pm. To review and evaluate Ecosystem Studies proposals as part of the selection process for awards.

Name: Advisory Committee for Ecological Studies.

Date & Time: March 30, 31 & April 1, 1994, 8:30 am–5 pm each day.

Place: Room 330, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Scott L. Collins, Program Director, Ecological Studies Cluster, 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: Open session: Wednesday, March 30, 1994, 3 pm–5 pm. Discuss Ecological Studies Cluster mission and goals.

Closed session: Wednesday, March 30, 1994, 8:30 am–3 pm; Thursday, March 31, and Friday April 1, 1994, 8:30–5 pm. To review and evaluate Ecology proposals as part of the selection process for awards.

Name: Advisory Committee for Systematic and Population Biology.

Date & Time: March 26–29, 1994, 8 am–5 pm each day.

Place: Room 375, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. James E. Rodman, Program Director, Systematic and Population Biology Cluster, Division of Environmental Biology, room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1481.

Minutes: May be obtained from the contact person above.

Agenda: Open session: Thursday, March 28, 1994, 1 pm–2 pm. To discuss Systematic and Population Biology Cluster mission and goals.

Closed Session: Tuesday & Wednesday, March 26 & 27, 1994, 8 am–5 pm; Thursday, March 28, 1994, from 8 am–1 pm and Friday, March 29, 1994, 8 am–5 pm. To review and evaluate Systematic Biology proposals as part of the selection process for awards.

Name: Advisory Committee For Systematic and Population Biology.

Date & Time: April 19–22, 1994, 8 am–5:30 pm each day.

Place: Rooms 380 & 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person: Dr. Therese Markow, Program Director, Systematic and Population Biology Cluster, Division of Environmental Biology, room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1480.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: Friday, April 22, 1994, 11 am–12. To discuss Systematic and Population Biology Cluster mission and goals.

Closed Session: Tuesday, Wednesday and Thursday, April 19, 20 & 21, 1994, 8 am–5 pm, Friday April 22, 1994, 8 am–11 am and 1 pm–5 pm. To review and evaluate Population Biology proposals as part of the selection process for awards.

Type of Meetings: Part Open.

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: March 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–5552 Filed 3–9–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR part 62—Criteria and Procedures for Emergency Access to Non-Federal and Regional Low-Level Waste Disposal Facilities.

3. The form number if applicable: Not applicable.

4. How often the collection is required: The information is only required to be submitted when a low-level waste generator requests emergency access to an operating low-level radioactive waste disposal facility.

5. Who will be required or asked to report: Low-level radioactive waste generators, or States, seeking emergency access to an operating low-level radioactive waste disposal facility.

6. An estimate of the number of responses: One every three years.

7. An estimate of the total number of hours needed annually to complete the requirement or request: 680 hours per response. With one response every three years, the estimated annual burden is 227 hours.

8. An indication of whether section 3504(h), Public Law 96–511 applies: Not applicable.

9. Abstract: 10 CFR part 62 sets out the information to be provided to the NRC by any low-level radioactive waste generator, or State, seeking emergency access to an operating low-level radioactive waste disposal facility pursuant to section 6 of the Low-Level Radioactive Waste Policy Amendments Act of 1985. The information is needed to permit NRC to make the required statutory determinations of necessity because of the existence of a serious and immediate threat to public health and safety and a lack of mitigating alternatives.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions may be directed by mail to the OMB reviewer:

Troy Hillier, Office of Information and Regulatory Affairs (3150–0143), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395–3084.

The NRC Clearance officer is Brenda Jo. Shelton, (301) 492–8132.

Dated at Bethesda, Maryland, this 18th day of March, 1994.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 94–5547 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–498 AND 50–499]

Houston Lighting & Power Co.; South Texas Project, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 55.59(a)(1) and (c)(1) in response to a request filed by the Houston Lighting & Power Company, et al. (the licensee), for the South Texas Project, Units 1 and 2, located in Matagorda County, Texas.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would allow the licensee to exceed the allowable time limit of twenty-four continuous months for each operator to successfully complete a requalification program as stated in 10 CFR 55.59(a)(1) and (c)(1). The proposed action is in accordance with the licensee's request for exemption dated December 17, 1993, and supplemented by letter dated January 14, 1994.

The Need for the Proposed Action

The exemption is requested on a one-time only basis to support the current requalification cycle that started on April 13, 1992. In January 1994, South Texas Project, Units 1 and 2 (STP) began a six-operating crew, six-week requalification training plan. This change will cause the current requalification cycle to continue until April 22, 1994, which exceeds the twenty-four month limit stated in 10 CFR 55.59.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption. The proposed exemption would allow STP to complete the current requalification cycle on April 22, 1994, an extension of ten days. This is a result of STP changing from five to six crews, as an enhancement to the operational staff. The increase was made to help maintain individual workloads at a reasonable level, to reduce the need for routine overtime, and to allow for continued, uninterrupted training. There will be no changes to the facility or the environment as a result of the exemption. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed changes do not affect nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts that would result from the proposed action, any alternative will have either no significantly different environmental impact or will have greater environmental impact. The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operation.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement for the South Texas Project, Units 1 and 2, dated August 1986.

Agencies and Persons Contacted

The NRC staff reviewed the licensee's request. The staff consulted with the State of Texas regarding the environmental impact of the proposed action.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated December 17, 1993, as supplemented by letter dated January 14, 1994, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, Lower Level, 2120 L Street, NW., Washington, DC 20555 and at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 3rd day of March 1994.

For the Nuclear Regulatory Commission.

William D. Reckley,

Acting Director, Project Directorate IV–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 94–5543 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The ACNW Working Group on the NRC staff Performance Assessment Capabilities in the Low-Level Waste Program will hold a meeting on March 22, 1994, Room P–110, 7920 Norfolk Avenue, Bethesda, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, March 22, 1994—8:30 a.m. until the conclusion of business.

The purpose of the meeting will be to review the NRC's low-level waste (LLW) performance assessment (PA) program, with emphasis on the status of the draft Branch Technical Position for PA for LLW Disposal Facilities and the NRC staff's performance assessment capability. Issues to be examined include on-going and planned activities, milestones and schedules, results of on-going test case analyses, and the evolution of the NRC staff's capabilities in performance assessment for LLW disposal facilities.

Oral statements may be presented by members of the public with the concurrence of the ACNW Working Group Chairman; written statements will be accepted and made available to the Working Group. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Working Group, its consultants, and staff. Persons desiring to make oral statements should notify the ACNW staff member named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the ACNW Working Group, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The ACNW Working Group will then hear presentations by and hold discussions with representatives of the NRC staff and their consultants, national laboratories, State officials, and other interested parties, as appropriate.

Further information regarding the agenda for this meeting, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant

ACNW staff member, Mr. Giorgio Gnugnoli (telephone 301/492–9851) between 8:15 a.m. and 6 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: March 4, 1994.

R.K. Major,

Chief, Nuclear Waste Branch.

[FR Doc. 94–5546 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 62nd meeting on Wednesday and Thursday, March 23 and 24, 1994, in room P–110, 7920 Norfolk Avenue, Bethesda, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

The agenda for the subject meeting shall be as follows:

Wednesday, March 23, 1994—8:30 a.m. until 6 p.m.

Thursday, March 24, 1994—8:30 a.m. until 6 p.m.

During this meeting the Committee plans to consider the following:

A. *Low-Level Waste (LLW) Performance Assessment Program*—Review the LLW Performance Assessment Program (Working Group meeting scheduled for March 22, 1994). A Draft Branch Technical Position on Performance Assessment for LLW Disposal Facilities will be the focus of the review. Representatives of the NRC staff will participate.

B. *Meeting with the Director of NRC's Office of Nuclear Material Safety and Safeguards (NMSS)*—Discuss items of mutual interest with the Director of NMSS.

C. *Natural Analogs*—Review the NRC staff technical program on natural analogs. Participation by the NRC staff and representatives of the Center for Nuclear Waste Regulatory Analyses is expected.

D. *NRC Staff Technical Position (STP) on Fault Avoidance*—Review the STP on Fault Avoidance. Public comments on the draft STP will be reviewed. The ACNW expects to issue comments on the final STP.

E. *Summary of Nuclear Waste Technical Review Board (NWTRB) Meeting on Seismic and Volcanic Hazards*—Hear a brief report from an ACNW member who attended this NWTRB meeting on Seismic and Volcanic Hazard Estimation at Yucca Mountain.

F. *Future Activities*—Discuss topics proposed for consideration by the full Committee during future meetings.

H. *New Members*—Discuss matters related to the Department of new members, and organizational and personnel matters related to the ACNW members and ACNW staff. Portions of this session may be closed to public attendance to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552b(c)(6).

I. *Miscellaneous*—Discuss miscellaneous matters related to the conduct of Committee activities and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. The ACRS Office is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the ACRS Office as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meetings as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Executive Director of the Office of the ACRS, Dr. John T. Larkins (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACNW Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: March 4, 1994.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 94–5548 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

Correction to Biweekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

In the Biweekly notice beginning on page 7694 in the issue of Wednesday, February 16, 1994, make the following correction:

On page 7694, *"Date of amendment requests:* December 14, 1993 (Reference LAR 93–07)" should read *"Date of amendment requests:* December 8, 1993 (Reference Lar 93–07)"

For the Nuclear Regulatory Commission.

Sheri R Peterson,

Project Manager, Project Directorate V, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 94–5542 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

Entergy Operations, Inc.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

[Docket No. 50–458]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–47 issued to Entergy Operations, Inc. (the licensee) for operation of the River Bend Station, Unit 1, located in West Feliciana Parish, Louisiana.

The proposed amendment would revise the technical specifications (TS) for the main steam-positive leakage control system (MS–PLCS) and the penetration valve leakage control system (PVLCS) to be consistent with the requirements contained in NUREG–1434, "Standard Technical Specifications, General Electric Plants (BWR/6)."

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change would not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change request would allow 30 days of continued operation with one penetration valve leakage control system (PVLCS) subsystem inoperable. The PVLCS is required to mitigate the

consequences of a design basis accident (DBA). The proposed change would increase the allowed outage time with one OPERABLE PVLCS.

Based on the RBS Level 1 and Level 2 Individual Plant Examination (IPE), the loss of one train of PVLCS, concurrent with a DBA and subsequent radionuclide release, is an extremely low probability event (e.g., less than 1E–7 per year). This probability is less than NRC Safety Goal of 1E–6 per year for large releases following a core damage event. Because of the extremely low probability of the event, the increase in allowed outage time from seven days to 30 days does not represent a significant increase in the probability or consequences of the DBA which PVLCS is intended to mitigate.

The PVLCS is not an initiator of any previously analyzed accident. The configuration of one system inoperable is presently addressed by the specification and will not change an allowed operation. Because the operation is no different than previously allowed, the consequences of an event previously evaluated has not been increased. The probability of an event requiring the system has been evaluated and determined to be very low.

In addition, the proposed changes address two subsystems inoperable. This change would allow seven days of continued operation with both main steam positive leakage control (MS–PLCS) and PVLCS subsystems inoperable. The MS–PLCS and PVLCS are not initiators of any previously analyzed accident. Therefore, these changes do not significantly increase the frequency of such accidents. This proposed change would allow temporary operation with no OPERABLE PVLCS or MS–PLCS. Minor increases in containment leakage, such as the leakage through the MSIVs, have been found to have no significant impact on the risk to the public.

Consequently, this change does not significantly increase the consequences of any previously analyzed accident.

The increase to the probability of core damage as a result of the loss of long term ADS air supply backup has been evaluated and determined to be less than the NRC safety goal of 1E–6 and the NUMARC goal of 1E–7 for evaluation. Therefore there is not a significant increase in the probability of an accident previously evaluated.

2. The proposed change would not create the possibility of a new of different kind of accident from any accident previously evaluated.

The proposed change to increase the allowed outage time from seven days to 30 days for one subsystem inoperable does not result in the possibility of a new or different kind of accident from any accident previously evaluated. This change does not result in any changes to the equipment design or capabilities. Since the PVLCS mitigates the consequences of an accident and failure of this system cannot create an accident. Therefore, this proposed change does not create the possibility of a new or different kind of accident from any previously analyzed accident.

The change to allow two systems out of service has been proposed for PVLCS and MS–PLCS of 7 days and is consistent with the allowable out-of-service time specified in LCO 3.6.1.8 and 3.6.1.9 of NUREG–1434, "Standard Technical Specification General Electric Plants, BWR/6" for these systems. This allowance is based on the low safety significance as discussed in NUREG–1273, "Technical Findings and Regulatory Analysis for Generic Safety Issue II.E.4.3, "Containment Integrity Check," and NUREG/CR–3539, "Impact of Containment Building Leakage on LWR Accident Risk."

Although the proposed change allows further operation of the plant with equipment not capable of performing its safety function, they do not result in any changes to the equipment design or capabilities. Loss of the containment function does not impact the reactor coolant pressure boundary or its support systems; therefore, does not create the possibility of a new or different kind of accident from any previously analyzed accident.

Since the change to the long term air supply for ADS has been evaluated and the increase in core damage is below the NRC safety goal of 1E–6 and the NUMARC goal of 1E–7 for evaluation, this proposal should not be considered as a new event.

3. The proposed change would not involve a reduction in the margin of safety.

The proposed change to increase the allowed outage time from seven days to 30 days for one subsystem inoperable does not involve a significant reduction in the margin of safety. The PVLCS is not an initiator of any previously analyzed accident. As stated above, the proposed change increases the allowed outage time for a system that is used to mitigate the consequences of an accident. The system continues to perform its intended safety function and the change in allowed outage time has a very small impact on plant risk. The configuration of one system inoperable is presently addressed by the specification and therefore will not change the previous margin of safety of an allowed operation. Because the operation is no different than previously allowed, the results of an event previously evaluated have not been increased. Therefore, the proposed change does not result in a significant reduction in a margin of safety.

The proposed change would also allow seven days of continued operation with both MS–PLCS and PVLCS inoperable. Minor increases in containment leakage such as the leakage through the MSIVs, as identified in NUREG–1273 and NUREG/CR–3539, have been found to have no significant impact on the risk to the public. Therefore, the proposed change does not result in a significant reduction in a margin of safety.

The change to the long term ADS air supply has been determined not to add significant risk to the general public; therefore, the change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Service, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the

publication date and page number of this Federal Register notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 11, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Suzanne C. Black, Director, Project Directorate IV–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mark J. Wetterhahn, Esq., Winston & Strawn, 1400 L Street, NW., Washington, DC 20005, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 22, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Government Documents Department, Louisiana State University, Baton Rouge, Louisiana 70803.

Dated at Rockville, Maryland, this 3rd day of March 1994.

For the Nuclear Regulatory Commission.

Robert G. Schaaf,

Acting Project Manager, Project Directorate IV–2, Division of Reactor Projects, III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 94–5541 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

Tennessee Valley Authority; Denial of Amendment to Facility Operating License and Opportunity for Hearing

[Docket Nos. 50–327 AND 50–328]

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Tennessee Valley Authority (licensee), for amendments to Facility Operating License Nos. DPR–77 and DPR–79 issued to the licensee for operation of the Sequoyah Nuclear Plant Units 1 and 2, located in Soddy Daisy, Tennessee. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on February 2, 1994 (59 FR 4948).

The purpose of the licensee's amendment request was to revise the Technical Specifications to delete License Condition 2.H from the Operating License. This license condition requires that violations of certain specified license conditions be reported to the NRC Regional Office.

The NRC staff has concluded that the licensee's request cannot be granted because inadequate technical justification has been provided. The licensee was notified of the Commission's denial of the proposed change by a letter dated March 3, 1994.

By April 11, 1994, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and to the Office of the General Council, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated November 18, 1993, and (2) the Commission's letter to the licensee dated March 3, 1994.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington DC, 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 3rd day of March, 1994.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–5545 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–397]

Washington Public Power Supply System; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21, issued to Washington Public Power Supply System (WPPSS), for operation of the WPPSS Nuclear Project No. 2 (WNP–2) located in Benton County, Washington.

The proposed amendment would modify the plant operating license to reflect replacement of the existing analog main steam line radiation monitors, Integrated Nuclear Measurement and Control (INMAC), with a digital replacement, Nuclear Measurement Analysis and Control (NUMAC). The licensee identified the proposed change as an unreviewed safety question in accordance with 10 CFR 50.59, and requested the required license amendment to support the modification.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 11, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific

sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention:Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Theodore R. Quay: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory commission, Washington, DC 20555, and to M.H. Philips, Jr., Esquire, Winston & Strawn, Washington, DC 20555, attorney for the licensee.

Nontimely filing of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a0(1) (i)–(v) and 2.174(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after its completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated November 30, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 3rd day of March 1994.

For the Nuclear Regulatory Commission.

Theordor R. Quay,

Director, Project Directorate, Division of Reactor Projects–III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 94–5544 Filed 3–9–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Commercial Activities Performance Circular A–76

AGENCY: Office of Management and Budget.

ACTION: Issuance of Transmittal Memorandum No. 13, amending OMB Circular No. A–76, "Performance of Commercial Activities."

SUMMARY: This notice contains Transmittal No. 13, to OMB Circular No. A–76, "Performance of Commercial Activities."

This Transmittal Memorandum updates the Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs for Fiscal Years 1994 through 1999. The Federal pay raise assumptions and the non-pay category rates are contained in the President's Budget for Fiscal Year 1995. The factors contained in OMB Circular No. A–76, Transmittal Memorandum No. 12 are outdated.

The revision does not require any agency to (1) create or maintain a duplicate control/monitoring/reporting system or (2) adopt any additional controls, not presently in compliance with Federal Acquisition Regulations (FAR).

FOR FURTHER INFORMATION CONTACT: Mr. David Childs, Federal Services Branch, General Management Division, Office of Management and Budget, (202) 395–6104.

Franklin S. Reeder,

Assistant Director for General Management.

March 2, 1994.

Circular No. A–76 (Revised) Transmittal Memorandum No. 13

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Performance of Commercial Activities

This Transmittal Memorandum updates the Federal pay raise assumptions and inflation factors used for computing the Government's in-house personnel and non-pay costs, as provided in the President's Budget for Fiscal Year 1995.

The following factors should be applied per paragraph C pages IV–6 and IV–7 of the OMB Circular A–76 Supplemental Cost Comparison Handbook (August 1983).

Federal pay raise assumptions Effective date	Inflation factors military-civilian
January 1994	0.0
January 1995	1.6
January 1996	2.2
January 1997	2.5
January 1998	2.5
January 1999	2.5
Non-pay categories (supplies and equipment, etc.):	
FY 1993	2.7
FY 1994	2.6
FY 1995	2.9
FY 1996	3.0
FY 1997	3.1
FY 1998	3.1
FY 1999	3.1

Geographic pay differentials received in 1994 and prior years shall be included for the development of in-house personnel costs. The above pay raise factors shall be applied after consideration is given to the geographic pay differentials. The pay raise factors provided for 1995 and beyond shall be applied to all employees, with no assumption being made as to how they will be distributed between possible locality and ECI-based increases.

These revisions are effective as follows: all changes in the Transmittal Memorandum are effective immediately and shall apply to all cost comparisons in process where the Government's in-house cost estimate has not been publicly revealed before this date.

Sincerely,

Franklin S. Reeder,

Assistant Director for General Management.

[FR Doc. 94–5482 Filed 3–9–94; 8:45 am]

BILLING CODE 3110–01–P

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., section 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning April 1, 1994, shall be at the rate of 30 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning April 1, 1994, 33.5 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 66.5 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: February 25, 1994.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 94–5601 Filed 3–9–94; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Chicago Stock Exchange, Incorporated

March 4, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

AMLI Residential Properties Trust
Shares of Beneficial Interest, $.01 Par Value (File No. 7–12084)

American Paging, Inc.
Common Stock, $1.00 Par Value (File No. 7–12085)

Beazer Homes USA, Inc.
Common Stock, $.01 Par Value (File No. 7–12086)

Clear Channel Communications, Inc.
Common Stock, $.10 Par Value (File No. 7–12087)

Corimon
American Depositary Shares, No Par Value (File No. 7–12088)

Empressa La Moderna
American Depositary Receipt (each rep. 4 Class 1 Series A Common Shares) No Par Value (File No. 7–12089)

Grupo Mexicano De Desarrollo
Series L American Depositary Shares, No Par Value (File No. 7–12090)

Global Privatization Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–12091)

India Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–12092)

Morgan Stanley India Investment Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–12093)

Instituto Mobiliare Italiano
American Depositary Shares (rep. 3 shrs. of Common Stock) Par Value Lira 5,000 (File No. 7–12094)

Martin Marietta Materials, Inc.
Common Stock, $.01 Par Value (File No. 7–12095)

Nations Government Income Term Trust 2004, Inc.
Common Stock, $.001 Par Value (File No. 7–12096)

Pacific Gulf Properties, Inc.
Common Stock, $.01 Par Value (File No. 7–12097)

Summit Properties, Inc.
Common Stock, $.01 Par Value (File No. 7–12098)

Worldwide Dollarvest Fund, Inc.
Common Stock, $.10 Par Value (File No. 7–12099)

Western National Corporation
Common Stock, $.001 Par Value (File No. 7–12100)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit or before March 25, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–5473 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33701; File No. SR–CBOE–93–24]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Telephones Located on the Floor of the Exchange

March 2, 1994.

On June 7, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to incorporate into the rules of the Exchange the conditions imposed by the Exchange governing the use of member-owned and Exchange-owned telephones located at equity option trading posts on the floor of the Exchange. Notice of the proposal appeared in the **Federal Register** on July 21, 1993.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

CBOE Rule 6.23 prohibits members from establishing or maintaining any telephone or other wire communications between their offices and the Exchange floor without prior approval by the Exchange, and it authorizes the Exchange to direct the discontinuance of any communication facility terminating on the Exchange floor.

In October 1992, the Exchange determined to permit the installation of both Exchange-owned and member-owned telephones at equity option posts on the trading floor,[4] and it promulgated Information Circular IC92–118 ("Circular") to inform the membership of this new policy and the fees, charges, and conditions associated with the use of such telephones. At the time the Circular was issued, the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

[3] *See* Securities Exchange Act Release No. 32633 (July 14, 1993), 58 FR 33471 (July 21, 1993).

[4] The Exchange has not allowed telephones to be installed at index option trading posts for use by market markers. Telephone conversation between Pat Cerny, Market Surveillance, CBOE, and Brad Ritter, Attorney, Office of Derivatives Regulation, Division of Market Regulation, SEC, on February 24, 1994.

Exchange determined that the conditions applicable to the use of floor telephones would not be treated as rules of the Exchange, and accordingly, no surveillance obligations were imposed on the Exchange nor were members subject to formal disciplinary proceedings for violations of the polices contained in the Circular.

The Exchange now proposes to incorporate into its rules those conditions set forth in the Circular as applying to the use of telephones at equity options trading posts. Specifically, these conditions are as follows:

1. There will be no restrictions on where a member may call.

2. Floor telephones may not be used to receive orders, although they may be used to provide quotations.

3. Members may give their clerks their personal identification ("PIN") access codes. Although both members and clerks may use the post telephones, members will have priority. Liability for all calls made using a member's PIN access code will be that of the member.

4. Stock clerks will not be permitted to establish a base of operations utilizing post telephones.

5. Members and their clerks using the telephones consent to the Exchange requiring that any telephone or line be subject to tape recording.

6. The telephones will be used for voice service only. Data (PC's, fax, etc.) will remain subject to Exchange consent under a separate program.

7. Cellular or portable telephone may not be used on the trading floor.

8. Telephone headsets may not be used on the equity options floor.

The Exchange shall republish the Circular as a Regulatory Circular in order to inform members that these conditions are rules and that violations may lead to disciplinary proceedings. The Exchange believes it is now appropriate to treat these conditions as Exchange rules in order to be able to utilize both informal and formal disciplinary proceedings and sanctions to promote compliance.[5]

The Exchange intends to police compliance with these conditions by means of customary floor surveillance procedures, including reliance on surveillance by floor officials and Exchange employees. Additionally, the Exchange represents that it has in place a surveillance sharing agreement with the Chicago Mercantile Exchange ("CME") whereby transaction information is continually made available to the CBOE by the CME regarding futures transaction activity by CBOE members that is above certain defined parameters.[6] The CBOE also receives New York Stock Exchange ("NYSE") program trading information and analyzes this information against options activity to conduct surveillance for options strategies implemented ahead of and in anticipation of programmed equity trades.[7] Finally, the Exchange represents that it has systems in place to detect and deter frontrunning.[8] These systems generate a report of options trades occurring within a certain time period prior to the purchase or sale of blocks of 10,000 or more shares of the securities underlying the options.[9] The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5),[10] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, and maintain fair and orderly markets. Specifically, the Commission agrees with the Exchange's position as stated in the Circular that the proposed rule change may facilitate efficient access to underlying markets by providing market makers with more immediate access to those markets. Providing procedures whereby market makers in the equity options crowds can readily communicate with the off-floor offices of member firms as well as other locations off of the Exchange's trading floor, will allow them to obtain and transmit information more efficiently which may result in benefits to investors by improving execution of orders.

Further, incorporating the procedures contained in the Circular into the Rules of the Exchange will enable the Exchange to monitor better the use of the floor telephones and to discipline members for violations of those rules. As noted above, because the proposed telephone policy does not restrict where a member may call, the telephones may be used to place orders in underlying stocks and in futures markets.[11] With respect to equity-related transactions, while the telephones may give options market makers more immediate access to the market in the underlying securities, the Commission believes that the CBOE's surveillance systems currently in place are adequate to detect and deter any such attempts at manipulation including frontrunning. Although the surveillance procedures will not directly detect that a potential frontrunning may have been attempted through use of the floor telephones, the Exchange's existing surveillance procedures will ensure that the CBOE is aware of any options transactions that raise frontrunning concerns. Accordingly, although the placement of telephones on the equity options trading floor may make it easier for a market maker to place hedging orders in the underlying security, the use of the floor telephones will not diminish the ability of the Exchange to detect and deter manipulation. Similarly, the CBOE will continue to analyze options trading against NYSE program trading data for potential frontrunning.[12] With respect to futures-related transactions, the Commission believes that the Exchange would be able to adequately conduct surveillance for improper activities as a result of the transaction information provided to the Exchange by the CME pursuant to the Exchange's surveillance sharing agreement with CME.[13] Although the surveillance information obtained by the Exchange will not indicate that the floor telephones were used to enter into a potentially improper futures transactions, the Exchange's ability to conduct surveillance for potential manipulation will not be hindered because of the existence of floor telephones at the equity options posts on the floor of the Exchange. Additionally, the Commission also notes that surveillance information is shared through the Intermarket Surveillance Group ("ISG").[14] Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock

[5] The Exchange has represented that it has received no complaints, nor has it detected any violations of the procedures contained in the Circular since telephones have been installed at the equity options trading posts. Telephone conversation between Pat Cerny, Market Surveillance, CBOE, and Brad Ritter, Attorney, Office of Derivatives Regulation, Division of Market Regulation, SEC, on February 23, 1994 ("February 23 Conversation").

[6] *Id.*

[7] *Id.*

[8] Frontrunning is the practice of effecting an options transaction based upon non-public information regarding an impending block transaction in the underlying stock, in order to obtain a profit when the options market adjusts to the price at which the block trades.

[9] February 23 Conversation, *supra* note 5.

[10] 15 U.S.C. 78f(b)(5) (1988).

[11] The proposed rule change also allows members to use the floor telephones for the purpose of providing quotations on equity options. In using the telephones for this purpose, members may only provide quotations that have been publicly disseminated pursuant to CBOE Rule 30.11.

[12] *See supra* note 7 and accompanying text.

[13] *See supra* note 6 and accompanying text.

[14] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options market. *See* Intermarket Surveillance Group Agreement, July 14, 1983.

and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the CME and the Chicago Board of Trade joined the ISG as affiliate members in 1990.

The Exchange's proposal also prohibits the use of portable and cellular telephones on the equity options trading floor. Prohibiting the use of portable telephones aids in ensuring that market makers will be physically present at the equity options trading posts where the options classes to which they have been appointed are traded. The Commission believes that ensuring the physical presence of market makers at the trading posts helps to promote the maintenance of fair and orderly markets. As a result, the Commission believes that this restriction is within the discretion of the Exchange and does not raise regulatory concerns.

Finally, the Exchange has represented that since the Circular was issued and telephones at equity options trading posts have been installed, the Exchange has not received any complaints concerning their use, nor detected any violations of the procedures set forth in the Circular.[15]

In summary, because the Commission believes that installing telephones at the equity options posts on the floor of the Exchange may result in benefits to investors by allowing market makers to more efficiently hedge their options positions through improved immediate access to underlying markets while not impairing or diminishing the ability of the Exchange to conduct surveillance for improper equity-related or futures-related trading activity, the Commission finds that the proposed rule change is consistent with the requirements of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[16] that the proposed rule change (File No. SR–CBOE–93–24) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5478 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[15] February 23 Conversation, *supra* note 5.

[16] 15 U.S.C. 78s(b)(2) (1988).

[17] 17 CFR 200.30–3(a)(12) (1993).

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Relating to the Pledge of Government Securities as Collateral

[Release No. 34–33709; File No. SR–DTC–94–02]

March 3, 1994.

On January 26, 1994, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), [1] that would allow participants to pledge government securities to DTC as collateral to cover outstanding short positions. On February 15, 1994, the Commission published notice of the proposed rule change in the **Federal Register**.[2] No comments were received. This order approves the proposal.

I. Description

The proposed rule change provides for a procedure to allow participants to pledge government securities to DTC as collateral to cover outstanding Next-Day Funds Settlement ("NDFS") short positions.[3] Only short positions aged thirty calendar days or more will be eligible for collateralization.[4]

DTC imposes a cash penalty of 130% of the market value of the aged short position ("short position penalty").[5] The rule change provides an alternate means for participants to satisfy their obligation to provide DTC with a short position penalty. Participants also may continue to make cash deposits.

Under the proposal, participants may pledge government securities residing in their DTC "free" accounts.[6] Initially only DTC-eligible U.S. Treasury issues (Treasury bills, bonds, and notes) which are fully guaranteed by the U.S. Government will be accepted as collateral. There are no plans to expand the program beyond government securities at the present time, however, DTC may include other securities as collateral in the future.[7]

Each day, DTC will inform each participant of its short positions aged thirty days or older as of the close of business on the previous day. The participant can then enter a request over DTC's Participant Terminal System ("PTS") to pledge government securities. The pledge system will verify that the securities being pledged are eligible for collateralization before the pledge is allowed to update into DTC's system.

DTC will establish a special account on its books that will be used to receive book-entry pledges. The government securities will remain in DTC's account at the Federal Reserve Bank of New York.[8] DTC will accept partial pledges that do not cover the entire amount of the short position penalty.

The value of a participant's securities short positions and pledged securities[9] will be marked to the market on a daily basis, and short charges will be adjusted accordingly. Participants may pledge additional securities to cover an increase in their aggregate short charges or request a release of pledged securities which are no longer needed to cover their aggregate short charges. If the value of the pledged position is greater than the short position penalty, the excess will not be returned to the participant unless the participant requests it.[10]

A participant may substitute pledged securities or request a complete release of collateral. In the former instance, after inputting the new pledge and the release request, the participant would contact the Reconciliation Department prior to 12:30 p.m. to request a release approval. The substitution will be made upon approval of the release request. In the event the participant requests a

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 33602 (February 8, 1994), 59 FR 7273.

[3] The proposed rule change contemplates pledges of the type described in DTC Rule 4, Section 1 relating to DTC's Participant's Fund. DTC rule 4, Section 1. Letter from Karen G. Lind, Associate Counsel, DTC, to Sonia G. Burnett, Attorney-Advisor, Commission (February 23, 1994).

[4] The procedure is available for positions that are aged thirty days or more because many short positions that are due to administerial errors are cleared up in the first thirty days. The new procedure is designed to be utilized in the case of short positions that are difficult to cover because the securities are thinly traded. Letter from Karen G. Lind to Sonia Burnett, *supra.*

[5] The cash DTC receives is invested and earns interest. The interest earned is returned to participants at periodic intervals during the year as part of the general refund. The general refund allocates back to participants excess operating revenues and interest earned calculated by activity levels.

[6] Each participant's DTC "free" account contains securities that are available for transfer or pledge. other securities, such as those that are segregated for customers or pledged to pledgee banks do not reside in the "free" account. Letter from Karen G. Lind to Sonia G. Burnett, note 3 *supra.*

[7] Letter from Karen G. Lind to Sonia G. Burnett, note 3 *supra.* In order to expand the types of eligible collateral to include securities other than Treasury bonds, notes, and bills, DTC will file a proposed rule change with the Commission under Section 19(b)(2) of the Act and Rule 19b–4 thereunder.

[8] Letter from Karen G. Lind to Sonia G. Burnett, note 3 *supra.*

[9] The pledged securities will be valued at full market value. DTC will not impose a haircut on the pledged securities but will require a short position penalty of 130% of the market value of the short position.

[10] Letter from Karen G. Lind to Sonia G. Burnett, note 3 *supra.*

release of collateral without requesting to pledge substitute collateral, the pledged securities would be returned to the "free" account at the end of the processing day and the short charges would be reinstated the following day.

If pledged securities are redeemed, DTC will hold the redemption proceeds in a suspense account until the pledged securities are released and moved to the participant's "free" account. At that time, the redemption proceeds would be credited to the participant's settlement account. If pledged government securities are called for redemption, the participant must release the pledge and move the securities to a "free" account. Interest earned on pledged securities will be automatically credited to the participant's account.

II. Discussion

The Commission believes DTC's proposal is consistent with the Act and particularly with sections 17A(b)(3)(A) and (F) of the Act.[12] Those sections require that a clearing agency be organized and its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

The proposed rule change will give DTC participants greater flexibility in collateralizing their short positions. By allowing participants to pledge government securities to DTC to replace cash deposits, the proposed rule change will improve participants' cash management abilities and liquidity.

At the same time, the proposal will continue to provide DTC with high quality collateral for short positions, mitigating the risk involved in uncovered short positions.[13] DTC will accept only Treasury notes, bonds, and bills which are backed by the full faith and credit of the U.S. Government. DTC therefore will not be subject to the credit risk of the obligor. Because the market for Treasury bills is extremely large and relatively liquid, DTC believes its liquidation risk will be minimal. Furthermore, DTC will employ its usual internal controls to segregate pledged positions within the pledge account and to minimize the risk of double pledging. By permitting DTC to minimize its credit and liquidation risk, the proposal promotes the safeguarding of securities and funds in DTC's custody or under its control.

III. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change (File No. SR–DTC–94–02) is consistent with section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–DTC–94–02) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5479 Filed 3–9–94; 8:45 am]

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[12] 15 U.S.C. 78q-1(b)(3) (A) and (F) (1988).

[13] Credit risk is the risk that the counterparty to a transaction will not fulfill its obligation. Market risk is the risk associated with adverse changes in the market price of a security. Liquidation risk is the risk that the full value of collateral will not be realized upon liquidation of such collateral.

[14] 17 CFR 200.30–3(a)(12) (1990).

[Release No. 34–33708; File No. SR–MSE–93–05]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to Proposed Rule Change Relating to Agency Crosses Between the Disseminated Exchange Market

March 3, 1994.

I. Introduction

On March 2, 1993, the Midwest Stock Exchange, Inc. ("MSE," "Exchange" or "Chicago Stock Exchange")[1] submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2] and rule 19b–4 thereunder,[3] a proposed rule change relating to the execution of agency cross transactions at a price between the disseminated Exchange market. On December 10, 1993, the MSE submitted to the Commission Amendment No. 1 to the proposed rule change in order to summarize and respond to a comment letter it received in opposition to this proposal.[4] On February 16, 1994, the MSE submitted Amendment No. 2 to the proposed rule change to specify that the proposal only applies to block trades and to clarify the Exchange's position regarding specialist participation in cross transactions.[5]

The proposed rule change was published for comment in Securities Exchange Act Release No. 33500 (January 21, 1994), 59 FR 4128 (January 28, 1994). One comment letter was received on the proposal.[6] This order approves the proposed rule change, including both amendments.

II. Description of the Proposal

Article XX, Rule 23 of the Exchange's rules outlines the current method for the execution of cross transactions on the MSE.[7] Under that rule (in conjunction with the MSE's priority rule), a member or member organization effecting a cross transaction first must assure that all existing bids or offers, at or better than the cross price, are filled at their limits.[8] Thereafter, the member or member organization must publicly announce both sides of the cross; the member's offer must be higher than its bid by at least the minimum variation permitted for that security.[9] Rule 23 then allows the member or member organization to execute the cross transaction at its bid or offer. Under this method, however, another member can "break up" the cross, by trading with either the bid or offer side of the transaction when it is presented to the crowd. According to the Exchange, the ability of the specialist, in particular, to participate in a cross transaction decreases the

[1] As of July 8, 1993, the MSE changed its name to the Chicago Stock Exchange, Inc. ("CHX"). See Securities Exchange Act Release Nos. 32488 (June 18, 1993), 58 FR 34284 (June 24, 1993) (File No. SR–MSE–93–13) (immediate effectiveness of proposed rule change to amend the MSE's Certificate of Incorporation and Constitution to effect a name change); and 32489 (June 18, 1993), 58 FR 34285 (June 24, 1993) (File No. SR–MSE–93–16) (immediate effectiveness of proposed rule change to make conforming changes to the MSE Rules.)

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b–4 (1991).

[4] See letter from David T. Rusoff, Foley & Lardner, to Beth A. Stekler, Attorney, Division of Market Regulation, SEC, dated December 9, 1993 ("Amendment No. 1").

[5] See letter from David T. Rusoff, Foley & Lardner, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated February 15, 1994 ("Amendment No. 2").

[6] See letter from Robert Hill, Vice President, The Chicago Corporation, to the Executive Committee, MSE, dated October 20, 1992 ("Hill comment letter"). The Hill comment letter was forwarded to the Commission as part of Amendment No. 1, *supra*, note 4.

[7] In a cross transaction, a member or member organization that holds an order to buy and an order to sell an equivalent amount of the same security wishes to execute the orders against each other. Because it already holds both sides of the trade, the member does not want the orders to interact with other market interest.

[8] As a general matter, the bid/offer entered at the best price (*i.e.*, the highest bid or the lowest offer) is entitled to priority over bids/offers at inferior prices; similarly, the first bid/offer clearly established at a given price is entitled to priority over other bids/offers at the same price. See Article XX, rules 15–18 of the MSE Rules.

[9] Article XX, Rule 22 of the MSE Rules sets forth the minimum variation permitted for securities traded on the Exchange.

likelihood of the order sending firm receiving an immediate execution.

The Exchange proposes to add a new Interpretation and Policy .01 to Rule 23. Specifically, the proposed interpretation will require that the MSE specialist refrain from interfering with a floor-brokered agency cross,[10] of 10,000 shares or more,[11] at a cross price between the disseminated Exchange market.[12] Even if the above requirement precludes specialist participation, once a cross is executed, the specialist nevertheless will be obligated, as under current rules, to satisfy all book orders with priority at the cross price. In contrast, the MSE proposal will allow the specialist to participate in a block agency cross if he or she has a disseminated bid or offer *at* the cross price, regardless of the size thereof.[13] Finally, the MSE has clarified that a specialist who is willing to provide one side of the cross with a better price will have the opportunity to do so.[14]

The MSE states that the purpose of the proposed rule change is to increase the possibility of immediate execution of agency crosses on the Exchange when the cross price is between the disseminated MSE market. The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act, in that it is designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

[10] For purposes of this proposal, the Exchange has defined the term "agency cross" as a cross where neither the order to buy nor the order to sell is for the account of any member or member organization (*i.e.*, including, but not limited to, the member or member organization executing the cross). Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on January 5, 1994.

[11] The proposed interpretation will not apply to crosses of less than 10,000 shares. According to the Exchange, the current rules, see *supra* notes 7–9 and accompanying text, will continue to govern the execution of, and specialist participation in, crosses that fall below the MSE's 10,000 share size threshold for block trades. Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on February 18, 1994.

[12] However, the specialist will be allowed to participate if the member presenting the cross previously solicited his or her assistance in consummating any part of the transaction.

[13] In particular, the Exchange has indicated that a specialist who is displaying a bid or offer at the cross price will be allowed to participate at that price, even in a size greater than his or her quotation. Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on December 20, 1993.

[14] See Amendment No. 2, *supra*, note 5.

III. Comments Received and MSE Response

One comment letter on the proposed rule change, from a MSE specialist, was received by the Exchange and forwarded to the Commission.[15] In his letter, the commentator recommends that the MSE proposal be disapproved and raises several arguments, as discussed below, in support of his position.

First, the commentator states that the MSE's rules have always provided for the protection of customer orders, no matter how small, and claims that this proposal represents a significant philosophical change from that stance. The commentator fears that this will undermine the Exchange's leverage in arguing for increased protection and participation of public orders.

The letter also suggests that a new policy is not necessary at this time. In the commentator's opinion, most instances where crosses are broken up occur for legitimate reasons, and, while there may be problems with certain specialists, overall brokers believe that the current rules are adequate. Moreover, the commentator contends that the Exchange does not have much to gain, except for "window dressing trades," from the proposed rule change. To this end, the commentator states that the Exchange will receive little in the way of additional transaction fees or CTA revenue.

In addition, the commentator argues that the proposed interpretation makes no allowance for human slowness and asks what will happen in busy markets. The commentator notes that a public order which has come in to the MSE specialist, but has not yet been reflected in his or her quote, cannot participate in a cross; the letter implies that this result is contrary to the type of business an exchange (as opposed to a crossing network) wants to encourage. In addition, the commentator suggests that the new policy will be susceptible to abuse because the MSE cannot determine, on an immediate basis, whether a particular transaction is really an agency cross. His letter predicts that monitoring "after the fact" will have a negative impact on the Exchange's ability to attract business.

Finally, the commentator expresses concern that this proposal will reduce the natural tension between specialist and broker that allows for efficiency in the marketplace. The commentator argues that the Exchange should be encouraging more orders and less crosses. From his perspective, liquidity is based on the flow of orders into the price discovery network, and, accordingly, it is not in the Exchange's interest to facilitate what he describes as passively priced orders that trade without interaction.

The MSE responded to the issues raised by the specialist's comment letter.[16] In its response, the MSE asserts that the proposed rule change will not interfere with the execution of public orders on the specialist's book. According to the Exchange, customer orders will continue to be protected under its proposal, because the specialist will be required to fill limit orders at the cross price, even if they are not displayed due to the specialist's oversight. In the Exchange's view, this requirement also should encourage specialists to be more efficient in representing customer orders and to quote their true market.

Second, the MSE disputes the commentator's assessment of the costs and benefits of the proposed rule change. The MSE believes that its new policy will encourage more institutional trades to be routed to the Exchange floor; whether this will result in more revenue is described as a "secondary consideration." In conclusion, the MSE states that its proposal will create a more attractive marketplace for institutional orders, without sacrificing traditional agency auction market principles.

In addition, the MSE does not agree with the commentator that the potential for abuse (*i.e.*, by not having an agency order on both sides of the trade) is a valid argument against adopting the proposed interpretation in the first place. The Exchange states that many of its present rules cannot be monitored for compliance on an immediate basis, and pledges to take appropriate action if it finds that members are abusing this rule.

Finally, according to the MSE, the proposed rule change will not reduce the possibility of order interaction on the floor. The Exchange notes that a specialist who is not displaying his or her market at the cross price (and who has not previously been solicited for help) will be the only one who cannot participate in a cross transaction. This proposal will not affect the requirement that both sides of the cross be announced publicly and/or the ability of other interest in the crowd to participate. In fact, the MSE contends that, as a result of this policy, more orders could be routed to the Exchange floor and could take part in the auction process.

[15] See Hill comment letter, *supra*, note 6.

[16] See Amendment No. 1, *supra*, note 4.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of sections 6(b) and 11(a).[17] In particular, the Commission believes that the proposed rule change is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest; and with the section 6(b)(8) requirement that the rules of an exchange not impose any unnecessary burden on competition. The Commission also believes that the proposed rule change does not operate in a manner inconsistent with the traditional auction market principle of customer priority, as embodied in section 11(a) of the Act.

After careful review of the comments received as well as the applicable statutory provisions, the Commission has concluded that the proposed rule change should further competition among the exchanges, as well as between exchanges and other markets, and should increase the opportunities for the efficient execution of cross transactions. In the past, the Commission has recognized the competition that exists between the various markets for order flow, and especially for block business. Several exchanges recently have received Commission approval to amend their rules, on the grounds that exchange rules may hinder members' ability to execute a cross transaction without interference and thus may place an exchange at a competitive disadvantage.[18]

In response to today's competitive market environment, the MSE has proposed to add a new requirement that a specialist's proprietary bid or offer must yield to a block agency cross at a cross price between the prevailing Exchange quotation. The MSE's new policy, however, will allow a specialist who has a disseminated bid or offer at the cross price to participate at that price. On balance, the Commission believes that the proposal will clarify the roles of various market participants and assure that, under routine circumstances, crosses are executed in a fair and orderly manner, without disadvantaging public customer orders. For instance, the Commission has determined that, for a regional exchange like the MSE, a size threshold of 10,000 shares is not unreasonable. Similarly, specialists will be protected from yielding priority if they have exposed themselves to market risk at the cross price. Accordingly, the Commission finds that the proposed rule change should improve the MSE's ability to compete for block business and potentially could enhance the depth and liquidity of the Exchange market.[19]

In terms of auction market principles, the Commission believes that the proposed rule change strikes an appropriate balance between the competing needs of various customer orders represented for execution on the MSE and the proprietary trading operations of Exchange members and member organizations, including specialists. The Commission notes that the MSE's new policy only applies to crosses between the disseminated Exchange market. Accordingly, a member effecting a cross transaction *at* the prevailing bid or offer will, consistent with current rules, be required to obtain priority over all existing limit orders at that price.[20] In the event that an order on the specialist's book has not been displayed in the quote but has time priority, the MSE proposal guarantees that, after an order is effected at its price (pursuant to rule 23 or otherwise), that limit order will be filled, even if the specialist is precluded from interfering with the cross on its behalf. Thus the Commission has concluded that the MSE proposal adheres to the auction market principles of time and price priority and that this method for the execution of crosses (and, in particular, the priority granted to block agency crosses) will not disadvantage existing orders.[21] In fact, limit orders on the MSE which coincide with the cross price could benefit from being assured of receiving an execution at that price.

Furthermore, the Commission finds that the MSE proposal does not restrict the opportunity for customer orders to receive price improvement. To this end, rule 23 will allow the specialist to participate in a cross transaction to provide one side with a better price, notwithstanding any other provisions of this rule.[22] In addition, under the proposed rule change, it is still possible for interest in the trading crowd, including an order for the principal account of a member, to break up the cross and improve the price.

The Commission also believes that the MSE proposal would not grant priority, parity or precedence to the order of a member in a manner inconsistent with section 11(a)(1)(G) of the Act or SEC rule 11a1–1(T)(a)(3) thereunder.[23] For purposes of this proposed rule change, the MSE has defined the term "agency cross" as a cross where neither the order to buy nor the order to sell is for the account of a member or member organization. Because the definition of "agency cross" excludes (and, thus, does not grant priority to) an order for the account of the broker effecting the cross transaction or an associated person thereof,[24] the Commission is satisfied that the proposed rule change complies with section 11(a).

The Commission does not agree with the commentator that this proposed rule change represents a significant philosophical change from the MSE's traditional stance of customer protection. As discussed above, the Exchange will continue to afford time and price protection to orders on the specialist's book.[25] In the Commission's opinion, this proposal contains adequate safeguards to ensure that public customers are not disadvantaged.

In addition, the Commission finds that the Exchange has advanced a satisfactory rationale for its new policy. The MSE believes that the specialist's

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[17] 15 U.S.C. 78f(b) (1988).

[18] See, *e.g.*, Securities Exchange Act Release Nos. 27205 (August 31, 1989), 54 FR 37180 (September 7, 1989) (File No. SR–Phlx–89–17) (approving Philadelphia Stock Exchange ("Phlx") proposal to prohibit members from interfering, with either side of an agency cross or the customer side of a facilitation cross, by buying or selling for their own account at the cross price; except that a specialist can participate to the extent of a publicly disseminated bid or offer at that price, or to better the price); 31343 (October 21, 1992), 57 FR 48645 (October 27, 1992) (File No. SR–NYSE–90–39) (approving New York Stock Exchange ("NYSE") "clean cross" proposal to allow members to execute agency crosses of 25,000 shares or more, at a price at or within the prevailing quotation, without interference, irrespective of any pre-existing bids or offers at the cross price; however, the cross can be broken up at a better price); and 33391 (December 28, 1993, 59 FR 336 (January 4, 1994) (File No. SR–PSE–91–11) (approving Pacific Stock Exchange ("PSE") proposal to prohibit specialists from participating for their own account on either side of an agency cross, or the customer side of a facilitation cross, at a price within the disseminated PSE market; except that a specialist can participate to better the price).

[19] The Commission appreciates all the exchanges' competitive concerns with respect to the facilitation of cross transactions and, at the same time, continues to emphasize the importance of adherence with traditional auction market principles.

[20] See *supra*, note 8.

[21] In this regard, the MSE proposal contrasts favorably with other rule changes approved by the Commission, such as the NYSE's clean cross proposal, see *supra* note 18.

[22] See Amendment No. 2, *supra*, note 5.

[23] 17 CFR 240.11a1–1(T)(a)(3).

[24] Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on March 3, 1994.

[25] See *supra*, notes 20–21 and accompanying text.

ability to participate in a cross transaction decreases the likelihood of the order sending firm receiving an immediate execution. Conversely, the MSE argues that minimizing such interference will make the Exchange a more attractive marketplace for institutional orders (regardless of the effect on Exchange revenues). In the absence of a finding that this proposal is inconsistent with the Act, which the Commission cannot make at this time, the Commission is willing, in these circumstances, to defer to the MSE's judgment about the need for and the potential gains from the proposed rule change.

The Commission also believes that the means the exchange has chosen to accomplish its goals are not unreasonable, despite the potential for abuse identified by the commentator. In reaching that conclusion, the Commission placed great weight on the MSE's assurances that its current surveillance methods (especially, the existence of an audit trail) are capable of determining, in a relatively prompt fashion, whether a particular transaction was really an agency cross.[26] The Exchange, moreover, has pledged to take appropriate action to remedy any instances of noncompliance. Based on the above, the Commission is satisfied that existing surveillance procedures will detect, as well as deter, abuse of the rule. Where appropriate, the Commission expects the Exchange to take prompt action to discipline members that fail to comply with the agency cross requirement.

Finally, the Commission does not believe that the MSE proposal will significantly reduce order interaction on the floor of the Exchange. As discussed above, only a MSE specialist who does not have a displayed bid or offer at the cross price must refrain from participating in a cross transaction at that price.

The specialist, however, will be allowed to participate at a better price; and other interest in the trading crowd will not be subject to a comparable yielding requirement.[27] In the context of other rule changes that have been approved by the Commission,[28] the limited scope of the yielding requirement and the protection afforded book orders at the cross price, the Commission does not expect that the MSE proposal will substantially impair the price discovery network and/or market liquidity.

The Commission finds good cause for approving Amendment No. 2 prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 2 merely delineates the scope of the original filing and clarifies the intent of certain language used therein. Finally, the interpretation the MSE proposes to adopt is substantially similar to the rules of several other exchanges that were published in the **Federal Register** for the full comment period and were approved by the Commission.[29]

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 to the proposed rule change. 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 Amendment No. 2 between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available at the principal office of the Chicago Stock Exchange, All submissions should refer to File No. SR–MSE–93–05 and should be submitted by March 30, 1994.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[30] that the proposed rule change (SR–MSE–93–05), including Amendments No. 1 and No. 2, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5476 Filed 3–9–94; 8:45 am]

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[26] Telephone conversation between David T. Rusoff, Foley & Lardner, and Beth A. Stekler, Attorney, Division of Market Regulation, SEC, on February 24, 1994.

[27] See *supra*, note 22 and accompanying text.

[28] See *supra*, note 18.

[29] No comments were received in connection with the rule changes submitted by the Phlx and PSE, which, as discussed above, see *supra* note 18, are substantially similar to the interpretation proposed herein.

[30] 15 U.S.C. 78s(b)(2) (1988).

[31] 17 CFR 200.30–3(a) (1991).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Pacific Stock Exchange, Incorporated

March 4, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following security:

Western National Corporation
Common Stock, $.001 Par Value (File No. 7–12083)

This security is listed and registered on one or more other national securities exchanges and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 25, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–5475 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33700; File No. SR–PSE–93–07]

Self-Regulatory Organizations; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1 and 2 to a Proposed Rule change by the Pacific Stock Exchange, Inc. Relating to the Listing and Trading of Quarterly Index Expiration Options Based on the Wilshire Small Cap Index

March 2, 1994.

On April 21, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1)

of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of options on the Wilshire Small Cap Index ("Wilshire Index") that will expire on the last business day of each calendar quarter ("Quarterly Index Expirations" or "QIXs").[3] Currently, Wilshire Index options traded on the Exchange expire on the Saturday immediately following the third Friday of the expiration month. The PSE intends to trade Wilshire Index QIXs in addition to the existing Wilshire Index options expiring at the middle of the month. Notice of the proposed rule change appeared in the **Federal Register** on June 23, 1993.[4] No comments were received on the proposed rule change. On December 28, 1993, the Exchange filed Amendment No. 1 to the proposed rule change.[5] On February 8, 1994, the Exchange filed Amendment No. 2 to the proposed rule change.[6] This order approves the proposal.

The Exchange proposes to add subparagraph (d) to Rule 7.8 to provide for the listing of up to eight near-term quarterly expirations for trading on Wilshire Index options. The PSE would be permitted at any one time to have up to eight QIX Wilshire Index options open for trading with expiration dates on the last business day of a calendar quarter.[7] Accordingly, Wilshire Index QIXs will have expirations approximately two weeks apart from existing Wilshire Index option expirations in the quarterly month expiration.

The proposed QIX options will trade simultaneously with, not independent of, currently listed and traded Wilshire Index options. The proposed QIX options will be subject to the same rules that presently govern the trading of existing Wilshire Index options contracts, including sales practice rules, margin requirements, and floor trading procedures.[8] Contract terms for the QIX options will be similar, for the most part, to the corresponding Wilshire Index options that presently trade on the Exchange. For example, Wilshire Index QIXs will have European-style[9] exercise. The daily exercise settlement value of the index will be based, however, on the value of closing prices of component stocks, rather than opening prices.[10]

With regard to position and exercise limits,[11] the PSE is proposing to amend Rule 7.6 to provide that Wilshire Index QIXs will be subject to the 37,500 contract limit currently specified for Wilshire Index options, but without the 22,500 contract limit or "telescoping requirement" for the series with the nearest expiration date applicable for regular Wilshire Index options.[12] For the purpose of this test, regular Wilshire Index options would be aggregated with the Wilshire Index QIXs, however, in the case of regular Wilshire Index options, the 22,500 contract telescoping requirement continues to apply.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[13] In particular, the Commission believes that the proposed rule change is designed to provide investors with a tailored quarterly portfolio hedge that may be more suitable to their investment needs. Specifically, by providing investors with the ability to use Wilshire Index QIX options that settle based on the value of component stocks on the last business day of the calendar quarter, the PSE proposal will allow investors increased flexibility to tailor their portfolio positions to satisfy their investment objectives. For instance, according to the PSE, the performance of portfolio managers and institutional investors is judged on a quarterly basis.[14] Therefore, in the past, these investors have been forced to pursue "quarterly hedges" in the over-the-counter ("OTC") market employing forwards, options, and/or swaps. Accordingly, the Commission believes the PSE proposal is a reasonable response by the Exchange to meet the demands of sophisticated portfolio managers and other institutional investors who are increasingly using the OTC market in order to satisfy their hedging needs, and will thereby promote competition among these markets.[15]

In addition, the Commission believes that the PSE proposal will help promote the maintenance of a fair and orderly market because the purpose of the proposal is to extend the benefits of a listed, exchange market in Wilshire Index options to quarterly calendar expirations. The attributes of the Exchange's Wilshire Index options market versus an OTC market include, but are not limited to, a centralized

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1993).

[3] The Wilshire Small Cap Index is a broad-based, capitalization-weighted index of domestic equity securities traded on the New York Stock Exchange, Inc. ("NYSE"), American Stock Exchange, Inc. ("Amex"), and as national market securities traded through the facilities of the National Association of Securities Dealer's Automated Quotation system. The Index is composed of 250 domestic equity securities, and is designed to reflect the characteristics and market performance of small stocks generally.

[4] See Securities Exchange Act Release No. 32485 (June 17, 1993), 58 FR 26013 (June 23, 1993).

[5] In Amendment No. 1, the PSE proposes to add subparagraph (u) to Rule 7.1 to include a definition of QIX options. *See* Letter from Michael Pierson, Senior Attorney, Market Regulation PSE, to Richard Zack, Branch Chief, Office of Derivatives and Equity Regulation, Division of Market Regulation, Commission, dated December 28, 1993.

[6] In Amendment No. 2, the PSE proposes (1) to adopt Rule 7.8(d) specifying the terms of QIX options; and (2) to change a reference in proposed Rule 7.6(d)(2) from "Exchange" to "Board." In Amendment No. 2, the Exchange also agrees that: (1) the use of any multiplier with respect to QIX options other than 100 will require Commission approval pursuant to Section 19(b) of the Act; (2) any proposal to list and trade QIX options with more than twelve months to expiration will require Commission approval pursuant to Section 19(b) of the Act; and (3) QIX options will be subject to the same rules that presently govern the trading of existing Wilshire Small Cap Index options contracts, including sales practice rules, margin requirements, and floor trading procedures. *See* Letter from Michael Pierson, Senior Attorney, Market Regulation, PSE, to Brad Ritter, Attorney, Office of Derivatives and Equity Regulation, Division of Market Regulation, Commission, dated February 7, 1994 ("February 7 Letter").

[7] Presently, options traded at the PSE expire on the Saturday following the third Friday of the expiration month. The PSE trades index options with expirations of up to one year in length that expire at three month intervals. The Exchange allows for up to six expiration months with none farther out than twelve months. The PSE is not now proposing to list or trade Wilshire Index QIX options with more than twelve months to expiration. Any such proposal would be filed with the Commission for review under Section 19(b) of the Act. *Id.*

[8] *Id.*

[9] A European-style option is one that may be exercised only during a specified period prior to the expiration of the option.

[10] Regular options on the Wilshire Index are settled based on the opening prices of the component securities. *See* Securities Exchange Act Release No. 31397 (November 3, 1992), 57 FR 53368 (November 9, 1992) ("Exchange Act Release No. 31397").

[11] Position limits are the maximum number of option contracts permitted on the same side of the market with respect to a single underlying interest that may be held or written by a single investor or group of investors acting in concert. Exercise limits are the maximum number of option contracts on the same underlying interest that a single investor or group of investors acting in concert may exercise during any five consecutive business days.

[12] *See* Securities Exchange Act Release No. 32554 (June 29, 1993), 58 FR 36492 (July 7, 1993).

[13] 15 U.S.C. 78f(b)(5) (1982).

[14] In addition, many investment strategies employed by these portfolio managers converge at the calendar quarter. Hence, traditional exchange-type expirations provide a less than perfect hedge for many institutions.

[15] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

market center, an auction market with posted market quotations and transaction reporting, standardized contract specifications, parameters and procedures for clearance and settlement, and the guarantee of the Options Clearing Corporation ("OCC") for all contracts traded on the Exchange.[16]

The Commission also notes that the Exchange's existing rules applicable to stock index options, including among others, strike price interval, bid/ask differential, price continuity, and sales practice rules and position and exercise limits will apply to QIX options.[17] In particular, Wilshire Index QIXs will be subject to a 37,500 contract limit under Rule 7.6 without a telescoping provision, and will be aggregated with regular Wilshire Index contracts.[18] Accordingly, all Wilshire Index options contract positions are limited in total to a 37,500 position limit.

The Commission notes that Wilshire Index QIXs will be treated like regular Wilshire Index options except for expiration settlement which will be based on the closing values of the component securities.[19] Although the Commission continues to believe that basing the settlement of index products on opening, as opposed to closing prices on Expiration Fridays helps alleviate stock market volatility,[20] these concerns are reduced in the case of Wilshire Index QIXs, since expiration of these stock index options will not correspond with the normal expiration of stock index options, stock index futures, and options on stock index futures. In particular, Wilshire Index QIXs will never expire on an "Expiration Friday" or any other "Expiration Fridays" in March, June, September, and December, thereby diminishing the impact that Wilshire Index QIXs could have on the market. Accordingly, the Commission believes that Wilshire Index QIX options will not compromise the protection of investors or have an adverse market effect. Of course, the Commission expects the PSE to monitor the actual effect of Wilshire Index QIXs once trading commences and take prompt action (including timely communication with marketplace self-regulatory organizations responsible for oversight of trading in component stocks) should any unanticipated adverse market effects develop.

Lastly, based on representations from the PSE, the Commission believes that the PSE and the Options Price Reporting Authority ("OPRA") will have adequate systems processing capacity to accommodate the additional options listed in connection with QIX options.[21]

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission finds that Amendment Nos. 1 and 2 more closely conform the Exchange's proposal to proposals previously approved by the Commission with respect to the listing and trading QIX options.[22] Specifically, Amendment Nos. 1 and 2 provide definitions and additional listing and trading standards that are specifically tailored to Wilshire Index QIXs. The Commission believes that these additional standards strengthen the integrity of the security and may promote stability in the marketplace. Additionally, the Commission has not received any comments on this proposal. Therefore, the Commission believes it is consistent with sections 6(b)(5)[23] and 19(b)(2)[24] of the Act to approve Amendment Nos. 1 and 2 to the proposal on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All written submissions should refer to File No. SR–PSE–93–07 and should be submitted by March 31, 1994.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (SR–PSE–93–07) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5480 Filed 3–9–94; 8:45 am]

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[16] See Securities Exchange Act Release No. 31898 (February 22, 1993), 58 FR 11878 (March 1, 1993).

[17] See February 7 Letter, *supra* note 6.

[18] Regular Index options will continue to be subject to limits of 37,500 contracts with a telescoping limit of 22,500 contracts in the near term series. In the aggregate, all Wilshire Index contracts are limited to the position limits of 37,500 contracts established for this particular contract, however, in the near-term series, no more than 22,500 of these contracts may be regular Index options.

[19] See Exchange Act Release No. 31397, *supra* note 10.

[20] See Securities Exchange Act Release No. 30944 (July 21, 1992), 57 FR 33376 (July 28, 1992).

[21] *See* Letter from Michael Pierson, Senior Attorney, PSE, to Brad Ritter, Attorney, Office of Derivatives and Equity Regulation, Division of Market Regulation, Commission, dated February 25, 1994, incorporating a memorandum from Joseph Corrigan, Executive Director, OPRA, to Kim Koppien, PSE, dated February 24, 1994.

[22] See, e.g., Securities Exchange Act Release No. 32693 (July 29, 1993), 58 FR 41817 (August 5, 1993) (order approving the listing and trading of QIX options by the Chicago Board Options Exchange, Inc. on the Russell 200 Index).

[23] 15 U.S.C. 78f(b)(5) (1988).

[24] 15 U.S.C. 78s(b)(2) (1988).

[25] 15 U.S.C. 78s(b)(2) (1982).

[26] 17 CFR 200.30–3(a)(12) (1993).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges; Notice and Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

March 4, 1994.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Western Gas Resources, Inc.
Cum Conv. Pfd. Stock, $.10 Par Value (File No. 7–12072)
Western National Corporation
Common Stock, $.001 Par Value (File No. 7–12073)
Morgan Stanley India Investment Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–12074)
Walden Residential Properties, Inc.
Common Stock, $.01 Par Value (File No. 7–12075)
Evergreen Healthcare, Inc.
Common Stock, $0.01 Par Value (File No. 7–12076)
India Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–12077)
Travelers, Inc.
Warrants (File No. 7–12078)
KeyCorp
Dep. Shares each Rep. 1/5 of a share of 10 pc Cum. Pfd. Stock Class A (File No. 7–12079)
HMG Digital Technologies, Inc.
Common Stock, $.01 Par Value (File No. 7–12080)
Travelers, Inc.

5.5% Conv. Pfd. Series B (File No. 7–12081)
Jardine Fleming India Fund, Inc.
Common Stock, $.001 Par Value (File No. 7–12082)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 25, 1994, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–5474 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33703; File No. SR–GSCC–94–01]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Amendment No. 1 to Proposed Rule Change Relating to the Comparison and Netting of Members' Treasury Auction Purchases

March 2, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 26, 1994, the Government Securities Clearing Corporation ("GSCC") 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 self-regulatory organization. On February 18, 1994, GSCC filed Amendment No. 1 to the proposed rule change.[2] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Jeffrey F. Ingber, General Counsel, GSCC to Jack Drogin, Branch Chief, Commission (February 15, 1994).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify GSCC's rules to allow GSCC to accept and report data on proprietary purchases of Treasury securities made at auction by members of GSCC's Netting System; to net the purchases with when-issued trades of such members in the same securities; and to deliver purchased securities through GSCC's clearing mechanism.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC 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

(a) In 1990, GSCC submitted to the United States Department of the Treasury ("Treasury") a preliminary proposal, with regard to Treasury security purchases made at auction by members of GSCC's Netting System ("netting members"), to: (1) Accept and report data on such purchases through GSCC's Comparison System; (2) net the purchases with when-issued trades of such members in the same securities, through the Netting System; and (3) assume responsibility for the delivery of the purchased securities, with GSCC receiving the securities via its agent bank directly from the appropriate Federal Reserve Banks for re-delivery through GSCC's clearing mechanism. Over the past several years, this proposal (known as the "auction takedown" proposal) has been refined as the result of discussion with and comment by GSCC Board members, Treasury and Federal Reserve Bank of New York ("FRBNY") staff, representatives of Public Securities Association committees, GSCC's members, and others.

Treasury, Federal Reserve Banks, and GSCC staff are working toward implementation of the proposal. While certain operational details regarding its implementation remain to be worked out, GSCC has targeted the Spring of 1994 as the time period for commencement of this service.

With the approval of GSCC's Board, this rule filing is being made in order for GSCC to receive the necessary authorization to implement the auction takedown proposal in conjunction with the Treasury, the Board of Governors of the Federal Reserve System ("Federal Reserve Board"), and the Federal Reserve Banks. This rule filing also would authorize GSCC more generally to establish a mechanism for taking in data on members' activity in eligible securities from sources such as exchanges and other clearing corporations and treating such data, under its rules, as compared trades to the same extent as if the data had been compared through the matching by GSCC of data submitted by two members.

GSCC believes that implementation of the auction takedown proposal would bolster the scope and effectiveness of GSCC's Netting System and the credit protections afforded by that system, would reduce the overall level of settlement exposure in the Government securities marketplace, and would provide other significant benefits, for the following reasons:

- The netting process performed by GSCC is incomplete so long as it does not encompass auction purchases, because there is no netting of such purchases with when-issued trades in the same securities in the secondary market. With the netting of auction purchases with secondary trades, the level of potential netting would be increased and, in the aggregate, there would be fewer required securities movements to be made.
- The settlement process for Treasury securities is made more efficient, because the re-delivery of original purchases to the next, and perhaps ultimate, buyer occurs in many cases virtually instantaneously after delivery by the Federal Reserve Banks (*i.e.*, where the auction purchase has been resold to another member).
- The proposal would reduce the counterparty credit risk to the Treasury resulting from the auction process.
- The level of daylight overdraft exposure may be lessened as the result of re-deliveries taking place earlier in the day.
- Currently, the information that GSCC maintains on the net settlement positions of members is incomplete and therefore, potentially misleading for risk management purposes, because those positions do not take into account auction purchases. For example, a member that appears to GSCC to be in a net short position in a particular CUSIP may in fact be in a net long position because of the size of its auction purchases. If this proposed procedure is implemented, more complete information on the overall distribution process required to settle auction purchases,

and the true net settlement positions of members during a when-issued period, would be available to GSCC, which would enable it to be better manage the risks and exposures presented to it by members' activity.

The general elements of GSCC's auction takedown proposal and its plan to establish a facility for the receipt of trade data on a locked-in basis are reviewed below.

1. The Auction Takedown Proposal

a. *Receipt of data by GSCC.* In the afternoon or evening of the day of a Treasury auction, the Federal Reserve Banks would transmit to GSCC information, on a per-CUSIP basis, regarding which netting members received auction awards of eligible securities and the amount and value of those awards at each yield by submitter. The Federal Reserve Banks would receive in advance the necessary authorization from netting members to allow the dissemination of such auction award information to GSCC.

b. *Eligible securities.* GSCC would accept and report data on Treasury auction purchases of netting members, and net such purchases, only if information on such purchases is provided to GSCC by a Federal Reserve Bank. If a Treasury auction bid is submitted by a netting member for its own account, information on an auction award arising from such bid would be provided to GSCC and the purchase would be included in GSCC's net. If a Treasury auction bid is submitted by a netting member with a customer's or client's name either on the tender form or on an attachment to the tender form that has been submitted to a Federal Reserve Bank (even is such customer or client is itself a netting member), information on an auction award arising from such bid would not be provided to GSCC, and the purchase would not be eligible for GSCC's net. Only auction purchases of CUSIPs with an issue date that is one or more business days after auction date would be eligible for netting and settlement through GSCC; thus securities that are auctioned and issued on the same date would not be eligible for GSCC's net.

c. *Reporting of auction purchase information.* There would be no requirement that auction award data reported to GSCC by a Federal Reserve Bank be matched with data submitted by the purchasing member. Each eligible auction award would be treated as a "locked-in trade" and would be reported by GSCC to the purchasing member as a part of the daily comparison output. Upon the availability of GSCC's comparison output, the locked-in trade would be binding on the member pursuant to GSCC's rules, just as a trade that has been compared by GSCC through the matching of data received from two members. The comparison output provided to members would indicate, as appropriate, that a locked-in trade has been reported using data supplied to GSCC by a Federal Reserve Bank.

Procedures would be established that would provide the Federal Reserve Banks with a unilateral capability to cancel incorrect data and to provide new, correct data, as necessary. All such corrections would be promptly reported by GSCC to its members. GSCC also would provide each member with the capability to generate a cancellation and correction request to the Federal Reserve Banks should it believe that an error has been made; however, a member-requested adjustment would be made by GSCC's system only if it is acted upon by a Federal Reserve Bank, which would provide the corrected data to GSCC.

d. *Netting.* Reported auction awards, which would be treated GSCC's rules as compared trades, would go directly into the net. Pursuant to GSCC's procedures for netting such trades, these trades would be netted with members' compared secondary market trades in the same CUSIP to establish net settlement positions. Net settlement positions arising in whole or part from auction purchases would be established by GSCC and be binding on members based on the auction award data provided by the Federal Reserve Banks.

GSCC would make available netting output reflecting such positions to the members. At that time, subject to a limited exception discussed below, GSCC would become obligated to accept delivery of each member's auction purchases and pay for such purchases, through its agent banks, as though GSCC had made the auction purchases. To allow GSCC to assume the risks associated with undertaking these obligations, GSCC would require from its members Clearing Fund margin and forward mark allocation payment amounts calculated based on their net settlement positions taking into account auction purchases.

e. *Change in the forward mark allocation payment formula.* In connection with implementation of the auction takedown proposal, GSCC's formula for calculating the forward mark allocation ("FMA") payment obligations of most of its members will be changed. Except for category 1 inter-dealer broker netting members, who do not have an FMA payment obligation, all netting members will have their FMA payment obligation calculated based on the entire debit mark. The current method reduces the debit mark by a fraction based on the five largest debit mark amounts. Currently, only category 2 dealers have their FMA payment obligation calculated based on the entire debit mark.

This is being done in order to enhance GSCC's risk management process. Absent this change, there might not be sufficient time in the morning of issue date for GSCC to collect—via the transaction adjustment payment (TAP) component of its funds-only settlement process—the mark-to-market payments necessary to protect itself and its members from market exposure on net settlement positions. Pre-collection of mark-to-market exposure amounts via FMA payments is the best means of assuring that GSCC would have sufficient protection, especially given the potentially large auction positions that would be encompassed within GSCC's net.

Based on its years of experience with the netting and guaranteeing of forward net settlement positions and the collection of FMA payments, GSCC believes that this change would not pose an undue burden on members. Currently, members typically pay at least 75 percent of each debit mark on a forward net settlement position (and closer to 100 percent of the debit mark for off-the-run issues).

As regards its members, GSCC would continue to assume responsibility for ensuring the settlement of the entire amount of each of the deliver and receive obligations, and related payment obligations, generated by the net. However, as is discussed below, as between it and the Treasury, under certain, limited circumstances, GSCC would not bear the risk of loss that arises from the potential failure of a member to pay for auction purchases.

f. *Delivery of auction purchases on issue date.* Securities deliveries would be made by the Federal Reserve Banks to the clearing bank designated by GSCC for such purpose (currently, The Bank of New York for Treasury Notes and Chemical Bank for all other products). A netting member that makes a netting-eligible auction purchase would be required to provide the Federal Reserve Bank from which it makes such auction purchase with appropriate instructions providing that such auction purchase be delivered to the agent bank designated by GSCC to act on its behalf with regard to such auction purchase. GSCC would continue to "pre-load" its agent banks during the early morning with netted deliver and receive instructions such that the re-deliveries by those banks of

auction purchases would occur automatically and virtually instantaneously after their receipt from the Federal Reserve Banks.

Deliveries would be made from a Federal Reserve Bank to GSCC against payment by GSCC at the auction award price. GSCC's initial redelivery to a member of a net long position that includes an auction purchase would be made against payment by such member at the greater of: (a) the settlement (market) value for the position nor (b) the average auction price for such auction purchase.

g. *Revision to the funds-only settlement process.* In order to take into account the delivery by GSCC of securities at a value different than the system value, a new concept—the settlement value—is being introduced and incorporated into GSCC's securities and funds-only settlement processes. This could be either the average auction price or the market value of securities, as designated by GSCC. The proposal also would authorize GSCC to require a member to settle net obligations at a price different from either the market value or average auction price if the member is subject to higher than normal surveillance status, and if, in the opinion of senior GSCC management, the potential for such member to fail to meet its settlement obligation to GSCC is higher than normal.[3]

Thus, following approval of the proposed rule change, members would be obligated to make and receive deliveries of securities to and from GSCC at the "settlement value" of the deliver or receive obligation. In the vast majority of situations, the settlement value of a receive or deliver obligation will be the same as the system value for such obligation. In those cases where an adjustment has been made by GSCC to the system value, such adjustment will be deemed to be the "delivery differential adjustment amount" and will be collected or paid as a new and separate component of the member's funds-only obligation. GSCC may establish varying delivery differential adjustment amounts for different deliver obligations and/or receive obligations of one or more members involving the same securities.

h. *Change in the handling of fails.* At the time of the implementation of netting, in 1989, due solely to internal operational concerns on the part of certain of the initial netting participants, it was determined that GSCC would maintain deliver and receive obligations on fail net settlement positions on an independent basis until settled. In the course of designing the auction takedown process, GSCC has reconsidered its handling of fails and has determined it appropriate now to allow the netting of fail deliver obligations and fail receive obligations with any other receive obligations and deliver obligations.

GSCC believes that the operational concerns that once prevented the netting of fail obligations are now gone. Moreover, allowing deliver and receive obligations on fail net settlement positions to be netted with any other receive or deliver obligations will enhance GSCC's netting process and further minimize the number of necessary movements of securities. Indeed, on occasion over the past several years, in response to a severe fail situation created by large short positions, GSCC has netted fail and non-fail positions in a specific CUSIP.

i. *Mandatory nature of the proposal.* Each member would be obligated to have all of its eligible Treasury auction purchases automatically delivered to GSCC's bank and encompassed within GSCC's net. There might, however, be certain circumstances, such as a member experiencing systems problems or just starting up in netting, where, because of operational considerations, GSCC would not allow a member's auction purchases to go into the net.

j. *Priority of auction purchase deliveries.* GSCC would provide a mechanism for ensuring timely delivery of needed auction purchases to a member that believes that, by virtue of its secondary market trading, it will have on issue date a net short or flat position, or a long position that is smaller than the amount of auction purchases that it requires, in a particular CUSIP. To accomplish this, each such member would be able to request (an "auction delivery request"), on a CUSIP-by-CUSIP basis, that GSCC deliver to it needed auction purchases (the "requested auction purchase amount") immediately after GSCC has received the securities from the Federal Reserve Banks on issue date.[4] Although an auction delivery request would be made prior to a member's having knowledge of its net settlement position on issue date, a member would be able to take advantage of this facility regardless of the nature (*i.e.*, long, short, or flat) of its ultimate net settlement position. GSCC would monitor this process to ensure that members are requesting priority delivery only of securities for which immediate delivery is needed.

For a member that submits an auction delivery request, GSCC would effectively split such member's existing net settlement position (the "prior net settlement position") into two net settlement positions—a new long position (the "requested position"), equal to the level of the requested auction purchase amount that is filled and a new offsetting short position (the "offsetting position"). Both the requested position and the offsetting position would be guaranteed by GSCC.

Each auction delivery request would have to be made to GSCC no later than on the second business day immediately prior to issue date (i.e., if the issue date is a Wednesday, the request must be made by GSCC's data input cutoff time in the evening of the prior Monday). An exception to this requirement would be allowed for purchases at auctions that are held on the business day immediately prior to issue date; in such a case, the request must be made by no later than on the auction date. As noted above, purchases made at auctions that are held on the same day as the day of issue are not eligible for GSCC's net.

The requested position would not be netted against the offsetting position or against any other existing net short position in the same CUSIP, nor would it be offset by the offsetting position or by any other existing net short position for purposes of calculation of the member's required Clearing Fund deposit. For purposes of calculation of a member's required Clearing Fund deposit, a priority delivery request would, prior to issue date, be treated as if it were a net long position if it is greater than the member's actual net long position. This would ensure that GSCC has sufficient margin protection prior to issue date.

Once all priority delivery requests are satisfied, GSCC would ensure that every netting member with a net long position comprised in whole or part of auction purchases receives from GSCC auction purchases in an amount equal to the lesser of such member's net long position or the amount of its auction purchases. Thereafter, a portion of the auction distribution likely would remain to be delivered out by CSCC. This would be done by delivering auction purchases, on an equal basis in $50 million increments, to each member with a net long position that remains unfilled. These deliveries also would take place immediately after GSCC's receipt of the auction distribution.

Once the auction distribution is exhausted, the allocation of securities received from members in a short

[3] See Letter from Jeffrey F. Ingber, General Counsel, GSCC to Jack Drogin, Branch Chief, Commission (February 15, 1994).

[4] A member cannot receive priority delivery of an amount of securities greater than the amount of auction purchases made by the member.

position in satisfaction of still remaining long positions then would take place pursuant to GSCC's normal allocation process, which first looks to fill the "receive" needs of the members with the largest long positions.

In sum, GSCC's allocation process would automatically satisfy—from the Federal Reserve Banks' auction deliveries to GSCC on the morning of issue date—a member's long position up to the amount of the member's auction purchases. Thus, unless a member's secondary market trading in a particular CUSIP results in its having a net settlement position that is short, flat, or less long than the amount of its auction purchases, GSCC's "normal" allocation procedure alone would ensure that timely delivery would be made to the member of the entire amount of auction purchases that it might need to take possession of in the morning of issue date.

k. *Links with Federal Reserve Banks.* GSCC plans to implement the auction takedown proposal inclusive of the Treasury auction purchases of all netting members, including those that take delivery of auction purchases from Federal Reserve Banks other than the FRBNY. In this regard, GSCC will establish the necessary links for the transmission of data to GSCC on the auction purchases of members currently receiving securities from other Federal Reserve Banks.

l. *Risk considerations for GSCC arising from the potential failure of an auction purchaser.* Because, as discussed above, GSCC guarantees its net settlement positions upon their establishment, it has considered the possibility that a member that has bid successfully on an auction issue may fail, on or prior to issue date, and, as a result, may not settle its net settlement positions that arise, in whole or part, from such auction purchases. In such an unlikely scenario, GSCC, in liquidating the member's positions, might incur a loss over and above the amount of collateral it holds from that dealer.[5]

Under this proposal, GSCC would continue to guarantee fully the secondary market when-issued trades of its members, as it does today, as well as each member's receipt of its auction purchases. However, GSCC does not believe that it is appropriate to extend its full settlement guarantee to the Treasury for auction purchases. GSCC would not be in a position to appropriately allocate the loss to its other members, because the party that effectively "traded" with the defaulting member was the Treasury.[6]

Pursuant to its arrangement with the Treasury, GSCC would have the right not to take delivery from a Federal Reserve Bank on issue date of part or all of the auction purchases of a member under the following limited and defined circumstances: (1) A netting member has made auction purchases in a CUSIP, and remains in a long net settlement position in that CUSIP; (2) GSCC has reasonable cause to believe, bases on information it has received, that the member cannot or will not timely take delivery of and fully pay for auction purchase amounts due it from GSCC; (3) GSCC has determined from its analysis and prevailing market conditions that there is reasonable cause to believe that, if it were to liquidate the member's position, it would incur a loss that would not be covered by the margin deposited by the member with GSCC and/or by profits from the liquidation of other positions of the member; and (4) GSCC notifies that appropriate Federal Reserve Bank, in a mutually acceptable manner, of its exercise of this right by no later than 8:30 a.m. New York time on the relevant issue date. GSCC can only exercise this right to the extent that it is to have delivered to it from a Federal Reserve Bank securities that it cannot net against a short position. Payment for any securities refused by GSCC would remain the responsibility of the member to whom such securities were awarded, pursuant to the terms established by the Treasury.

m. *Loss allocation.* The need for an allocation of residual loss arising from the liquidation of a failed member's auction purchases is a remote possibility, given that GSCC would have the right until 8:30 a.m. on the morning of issue date to refuse delivery of any residual net long position up to the amount of the member's auction purchases. Should an allocation of residual loss incurred as the result of the liquidation of a failed member's auction purchases be necessary, it would be handled in the same manner as any other allocation of loss. As a failed member's actual counterparty, the Treasury, cannot be assessed, following GSCC's current procedure is the most equitable means of allocating the loss, because it effectively spreads the loss among all of the netting members that the failed member did business with on or prior to the day of default.

2. Facility for the Reporting and Netting of Locked-In Trade Data

In addition to implementing the auction takedown proposal, the proposed rule change would establish a facility permitting GSCC to treat trade data received from certain other designated sources (e.g., exchanges or clearing corporations) as locked-in trades. The auction award data would be the first type of data to be accepted by GSCC on a locked-in basis.

a. *Reporting of locked-in trade data.* GSCC would accept trade data from a locked-in trade source without matching it with data provided by a member. GSCC would report these locked-in trades to members as part of its daily comparison output. For purposes of GSCC's rules, locked-in trades would be considered as compared trades and would be as valid, binding, and enforceable as comparisons issued based on a match of corresponding data submitted to GSCC by two members.

Each member that makes an eligible locked-in trade would be obligated to provide GSCC with authorization for GSCC to receive from the locked-in trade source data on the locked-in trade. GSCC would not accept data from a locked-in trade source with regard to a member unless GSCC previously has received this authorization.

A locked-in trade source that has submitted trade data to GSCC may have such data deleted or corrected by providing appropriate instruction to GSCC. Moreover, if the locked-in trade source is not a party to a locked-in trade, the data on the locked-in trade may be deleted or corrected upon receipt by GSCC of matching instructions from each member that is a party to such locked-in trade.

Data on locked-in trades would be reported by GSCC to members with an indication that such data has been received from a locked-in trade source. In its sole discretion, subject to the terms and conditions that it has agreed to with the locked-in trade source, GSCC may decline to accept from a locked-in trade source data on the locked-in trades of a particular member or members.

b. *Netting.* In order to be in a position to ensure the integrity of its netting process, GSCC may, in its sole discretion, subject to the terms and conditions that it has agreed to with the locked-in trade source, exclude any locked-in trade from the Netting System.

[5] As a risk control measure, each Netting Member must promptly inform GSCC of the termination of any autocharge agreement that it has provided to a Federal Reserve Bank.

[6] GSCC's loss allocation procedure essentially provides that, if GSCC incurs a loss due to the default of a member and, after applying to the loss all of the Clearing Fund or other collateral of such defaulting member held by GSCC, a deficit remains, the remaining loss is allocated to the members that had trading activity with the defaulting member for settlement on or prior to the day of default, in proportion to the dollar value of such trading activity of each such member.

Each netting member that makes a locked-in trade that is eligible for netting and settlement by GSCC must provide GSCC with authorization for GSCC to receive from the locked-in trade source data on the locked-in trade. Each netting member that makes a locked-in trade that is eligible for netting and settlement by GSCC must provide the locked-in trade source with sufficient authorization for the source to transmit to GSCC such data as GSCC deems necessary on the locked-in trade.

3. Other Revisions

GSCC Rule 11, Section 2 provides that a trade is eligible for netting and settlement through the GSCC Netting System if the number of business days between the scheduled settlement date and the comparison date is fewer than fifteen. GSCC proposes to revise this language to allow GSCC to establish the maximum number of business days between comparison and settlement by a separately published schedule. When GSCC made forward-settling trades eligible for the Netting System in 1990, it was uncertain as to the length of time that it would be required to guarantee settlement of those trades. Given that the price volatility normally increases over time, and that GSCC was not taking a full debit mark on forward-settling positions, GSCC was concerned about unlimited risk exposure, and therefore placed a fifteen business day limit on forward-settling trades. GSCC no longer believes this limit is necessary or appropriate. GSCC has adjusted its Clearing Fund formula to incorporate all forward-settling activity, and is now switching to taking a full debit mark on all forward-setting position. Therefore, the increased price volatility associated with a position that remains open for a lengthy period of time is a less significant factor.

GSCC also proposes to collect clearance difference amounts on an intra-day basis. In the auction takedown context, a money difference may arise as a result of the pairing-off with fail obligations because in certain circumstances GSCC will establish a settlement value for net long positions that is different from the system value of those positions (*i.e.*, if the average auction price is higher than the system price, the settlement value will be set at the average auction price). If a net long position that has a settlement value equal to the average auction price of the underlying securities is paired off with a fail net short position in the same CUSIP (as can happen if the security being issued is a reissue), there will be a money difference reflecting an amount owed to GSCC by the member. This money difference should be settled on the same day if it is a significant amount. However, at the time the pair-off is done, it is too late to collect the difference via the morning funds-only settlement process. Thus, GSCC needs the ability, in order to minimize its exposure, in its discretion to require the affected member to pay such money difference amount to it on the same day.

The proposed rule change also adds language expressly making clear that GSCC generally, in order to ensure the efficiency and integrity of its comparison and netting processes, has the discretion to establish minimum amounts, maximum amounts, and other parameters for the acceptance of data submitted to it.

(b) The proposed rule change will broaden the scope of Government securities activity that will receive the benefits of GSCC's comparison, netting, and risk management processes and reduce overall risk in the settlement system for Government securities. Thus, GSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact on, or impose a burden on, competition.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have previously been solicited and received. Members will be notified of the rule filing, and comments again will be solicited, by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

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. 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 provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–GSCC–94–1 and should be submitted by March 31, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5481 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20111; 812–8648]

Composite Bond & Stock Fund, Inc., et al.; Notice of Application

March 3, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Composite Bond & Stock Fund, Inc., Composite Growth Fund, Inc., Composite Northwest 50 Fund Inc., Composite U.S. Government Securities, Inc., Composite Income Fund, Inc., Composite Tax-Exempt Bond Fund, Inc., Composite Cash Management Company (the "Existing Funds"), Composite Research & Management Co. (the "Adviser"), and Murphey Favre, Inc. (the "Distributor") on their own behalf and on behalf of any other registered open-end management investment companies which the

Adviser may in the future serve as the investment adviser or which the Distributor may in the future serve as the distributor that are in the "same group of investment companies," as defined in rule 11a–3 under the Act (together with the Existing Funds, the "Funds").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 6(c) from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), 22(d) of the Act and from rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Funds: (i) To issue and sell two classes of securities representing interests in the same investment portfolio and (ii) to assess and, under certain circumstances, waive or defer a CDSC on certain redemptions of their shares.

FILING DATE: The application was filed on October 25, 1993 and amended on January 6, 1994. In a letter dated March 2, 1994, applicants' counsel has stated that an amendment, the substance of which is incorporated herein, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m., on March 28, 1994 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretarty, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 601 West Riverside Avenue, Spokane, WA 99201–0694.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 504–2406, or Barry D. Miller, Senior Special Counsel, at (202) 272–3018 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each Existing Fund is an open-end management investment company registered under the Act. Composite Cash Management Company is the only Existing Fund which currently has multiple series.

2. The Adviser, a wholly-owned, indirect subsidiary of Washington Mutual Savings Bank, is registered with the Commission as an investment adviser and provides investment advisory and management services to each of the Existing Funds. Each Existing Fund has entered into a management agreement with the Adviser.

3. The Distributor is a wholly-owned, indirect subsidiary of Washington Mutual Savings Bank. Each Existing Fund has entered into a distribution contract pursuant to which the Distributor acts as the distributor for the Funds. Each Existing Fund currently reimburses the Distributor for expenses incurred in connection with the distribution of its shares pursuant to a plan adopted by the Existing Fund in accordance with rule 12b–1 under the Act (a "12b–1 Plan"). Murphey Favre Securities Services, Inc., a wholly-owned indirect subsidiary of Washington Mutual Savings Bank, provides transfer agent and related services to each Existing Fund.

4. Each Existing Fund currently has only one class of shares. Shares of each Existing Fund except Composite Cash Management Company are currently sold at net asset value plus a sales load calculated as a percentage of the offering price. Composite Cash Management Company is a money market fund and its shares currently are sold at net asset value with no front-end sales load.

5. The Directors of each Existing Fund, including all the members of the Board of Directors who are not interested persons of that Fund as defined in section 2(a)(19) of the Act ("Disinterested Directors"), have approved the establishment of a multiple class distribution system (the "Multiple Class Distribution System"). The Multiple Class Distribution System will enable a Fund to offer investors the option of purchasing shares in one of two alternative manners: (i) Subject to a conventional front-end sales load and a separate 12b–1 Plan for that class ("Class A shares") or (ii) subject to no front-end sales load, but subject to a separate 12b–1 Plan for that class with expected higher 12b–1 Plan fees and a CDSC ("Class B shares").

6. The Multiple Class Distribution System will be implemented by having the Funds create and issue two classes of shares, with the currently authorized shares of each Existing Fund being redesignated as Class A shares. The actual creation and issuance of multiple classes of shares will be made on a Fund-by-Fund basis. Each class of a Fund will represent interests in the same portfolio of investments of such Fund. Each class of a Fund will be identical except that: (i) Each class will be subject to a different 12b–1 Plan and may pay different 12b–1 Plan fees pursuant thereto; (ii) each class will bear different Class Expenses (as defined below); (iii) each class will vote separately as a class with respect to the 12b–1 Plan for that class except as provided in condition 15 below; (iv) each class will have different exchange privileges; (v) only Class B will have a conversion feature; and (vi) each class will bear a different name or designation.

7. Investors purchasing Class A shares of the Funds other than Composite Cash Management Company will do so at net asset value plus a front-end sales load. The front-end sales load charges, volume discounts and waivers for Class A shares of each Existing Fund are initially expected to remain the same as currently in existence for that Existing Fund. Class A shares of each Fund will also pay 12b–1 Plan fees pursuant to the 12b–1 Plan for that class (the "Class A Distribution Plan").

8. Investors purchasing Class B shares will do so at net asset value without the imposition of a front-end sales load. Class B shares will pay an asset-based distribution charge pursuant to a 12b–1 Plan for that class at an annual rate not to exceed 0.75% per annum of the average daily net asset value of the Class B shares (the "Class B Distribution Plan") and a service fee of 0.25% per annum.[1] In addition, a redemption of Class B shares made within a specified period of their purchase generally will be subject to a CDSC imposed by the Distributor. The CDSC will decrease over the applicable CDSC period, so that redemptions of shares held after that period will not be subject to a CDSC. The Class B alternative is designated to permit the investor to purchase Class B shares without the assessment of a front-end sales load and at the same time permit the Distributor to pay financial intermediaries (typically broker-dealers) selling shares of each Fund a commission on the sale of Class B shares.

9. Under the Multiple Class Distribution System, a Fund's Board of Directors, acting in its sole discretion, could determine that any of certain

[1] The term "service fee" has the meaning given that term in Article III, Section 26(d)(9) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD") (NASD Manual, CCH 2176). Applicants will comply with the provisions of Section 26(d).

expenses attributable to the shares of a particular class ("Class Expenses") would be borne by the class to which they are attributable. In addition to 12b–1 Plan fees, Class Expenses borne by a class of shares will be limited solely to: (a) Transfer agency fees attributable to a particular class; (b) printing and postage expenses related to preparing and distributing to a particular class materials such as shareholder reports, prospectuses and proxy statements; (c) state and federal registration fees incurred by a specific class of shares; and (d) legal expenses relating to a particular class of shares.

10. Under the Multiple Class Distribution System, expenses that were attributable to a particular series of a Fund, but not to a particular class thereof, would be borne by each class on the basis of the aggregate net assets of such class.

11. Because of the varying 12b–1 Plan fees and Class Expenses that could be borne by each class of shares, the net income of (and dividends payable with respect to) each class could be different from the net income of (and dividend payable with respect to) the other class of shares of a Fund. Dividends, however, paid to each class of shares in a Fund would be declared and paid on the same days and at the same times and, except as noted with respect to the varying 12b–1 Plan fees and Class Expenses, would be determined and paid in the same manner.

12. Under the Multiple Class Distribution System, Class A shares of a Fund will be exchangeable for (i) Class A shares of the other Funds or (ii) shares of any Fund which offers only one class of shares (provided such Fund does not impose a CDSC), on the basis of relative net asset value per share, plus any applicable front-end sales charge. Class B shares of a Fund will be exchangeable for: (i) Class B shares of the other Funds or (ii) shares of any Fund which offers only one class (and which imposes a CDSC), on the basis of relative net asset value per share, without the payment of any CDSC that might otherwise be due on redemption of the Class B shares being exchanged. The exchange privileges applicable to each of the classes of shares will comply with rule 11a–3 under the Act.

13. The CDSC will not be imposed on redemptions of: (a) Shares which were purchased more than six years (the "CDSC Period") prior to their redemption, or (b) Class B Shares derived from reinvestment of distributions. Furthermore, no CDSC will be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation above the amount paid for shares purchased during the CDSC Period. In determining the applicability and rate of a CDSC, it will be assumed that a redemption is made first of any shares that were not subject to a CDSC and then of other shares in the order purchased.

14. Applicants reserve the right to change from time to time the CDSC and CDSC Period for any Fund. The CDSC Period, however, will not exceed six years. In all cases, however, any change in the terms of a CDSC would be reflected in the affected Fund's prospectus. In addition, such changes would not affect shares that had already been issued unless the change resulted in terms more favorable to the holders of such shares.

15. Under the proposed CDSC arrangement, the CDSC will be accompanied by a conversion feature. Under this conversion feature, after the expiration of a specified conversion period, Class B shares automatically convert at their net asset value into Class A shares. For purposes of the conversion of Class B shares to Class A shares, all Class B shares in a shareholder's Fund account that were purchased through reinvestment of dividends and other distributions paid in respect of Class B shares (and that have not converted) would be considered to be held in a separate sub-account. Each time any Class B shares in the shareholder's Fund account convert, an equal *pro rata* portion of shares then in the sub-account also would convert and would no longer be considered held in the sub-account. The portion would be determined by the ratio that the shareholder's Class B shares being converted bears to the shareholder's total Class B shares subject to the conversion feature.

16. Under the proposed CDSC arrangement, any conversion of Class B shares would be subject to the continuing availability of an opinion of counsel or a private letter ruling from the Internal Revenue Service to the effect that the conversion of shares did not constitute a taxable event under federal income tax law. Conversion of Class B shares to Class A shares might be suspended if such a opinion or ruling were no longer available.

17. The Funds may waive the CDSC on redemptions of Class B shares: (i) Following the death or disability of a shareholder, (ii) in connection with certain distributions from an IRA or other retirement plan,[2] (iii) pursuant to the Funds' systematic withdrawal plan but limited to 12% annually of the initial value of the account at the date upon which the plan was established, and (iv) effected pursuant to the right of the Fund to liquidate a shareholder's account.

18. The Funds may defer the CDSC on a redemption of Class B shares of a Fund which is followed by a reinvestment of Class B shares of such Fund or another Fund within 120 days after the redemption. The deferral will be effected by reimbursement of the CDSC previously paid, with the reimbursement being made by credit to the shareholder's account and being paid by the Distributor. The Class B shares acquired upon such reinvestment will remain subject to the CDSC applicable to the redeemed shares. In computing the holding period of the Class B shares acquired upon such reinvestment for purposes of the CDSC arrangement and the conversion feature, the holding period of the redeemed shares will be "tacked" to the holding period of the acquired shares.

19. All front-end sales loads, asset-based sales charges, and CDSCs of each Fund will comply with Article III, section 26(d) of the Rules of Fair Practice of the NASD.

Applicants' Legal Analysis

1. Applicants request an exemptive order to the extent that the proposed issuance and sale of Class A and Class B shares representing interests in the Funds might be deemed: (i) To result in the issuance of a "senior security" within the meaning of section 18(g) of the Act and thus be prohibited by section 18(f)(1) of the Act and (ii) to violate the equal voting provisions of section 18(i) of the Act. The creation of multiple classes of shares may result in shares of a class having "priority over [another] class as to * * * payment of dividends" and having unequal voting rights, because under the proposed arrangement: (1) The holders of different classes would pay different fees

[2] The charge may be waived for any total or partial redemption in connection with a lump-sum or other distribution from an Individual Retirement Account ("IRA"), a custodial account maintained pursuant to Internal Revenue Code of 1986, as amended ("IRC") section 403(b)(7), or a qualified pension or profit sharing plan ("Retirement Plans") following retirement or, in the case of an IRA or Keogh Plan or custodial account pursuant to IRC section 403(b)(7), after attaining age 59½. The charge also may be waived on any redemption which results from a tax-free return of an excess contribution pursuant to section 408(d) (4) or (5) of the IRC, the return of excess deferral amounts pursuant to IRC section 401(k)(8) or 402(g)(2), or from the death or disability of the employee. In sum, the CDSC may be waived on redemptions of Class B shares which constitute Retirement Plan distributions which are permitted to be made without penalty pursuant to the IRC, other than tax-free rollovers or transfers of assets.

pursuant to different 12b–1 Plans and different Class Expenses and (2) each class would vote separately with respect to its 12b–1 Plan.

2. Moreover, owners of each class of shares may be relieved under the Multiple Class Distribution System of a portion of the fixed costs normally associated with investing in mutual funds since the costs would, potentially, be spread over a greater number of shares than they would be otherwise. Similarly, if sales increase because of the addition of Class B shares, the owners of each class of shares could expect to enjoy, under the proposed arrangement, lower effective investment management fee rates than they would enjoy if the arrangement were not implemented. Therefore, in order to achieve these potential benefits and obviate the risks associated with the creation of a separate series for each new class of shares, the Funds propose to establish the Multiple Class Distribution System.

3. Applicants believe that the proposed allocation of expenses and voting rights relating to the 12b–1 Plans in the manner described above is equitable and would not discriminate against either group of shareholders. Moreover, the possibility that the interests of the two classes of shares will ever conflict would be remote. The rights and privileges of each class are substantially identical and the interests of each class of shareholders are adequately protected by the requirements of rule 12b–1, including the requirement that the 12b–1 Plan be approved and continued on an annual basis by the Directors of each Fund, including the Disinterested Directors.

4. The abuses that section 18 of the Act is intended to redress are set forth in section 1(b) of the Act which declares "that the national public interest and the interest of investors are adversely affected * * * (7) when investment companies by excessive borrowing and the issuance of excessive amounts of senior securities increase unduly the speculative character of their junior securities; or (8) when investment companies operate without adequate assets or reserves." The Multiple Class Distribution System described in the application does not involve borrowings and does not affect the Fund's existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the shares of the Funds, since all shares will participate pro rata in all of each Fund's income and expenses (with the exception of the differing 12b–1 Plan fees and expenses).

5. Each class of shares will be redeemable at all times. No class of shares will have any preference or priority over the other class in each Fund. No class will have distribution or liquidation preferences with respect to particular assets, nor any right to require that lapsed dividends be paid before dividends are declared on the other class, nor any protection by a reserve or other account. The similarities and, with respect to the 12b–1 Plans and associated voting rights and the exchange privileges, dissimilarities, of the Class A and Class B shares, will be fully disclosed in each Fund's prospectus. Investors will not be given misleading impressions as to the safety or risk of any class of shares and the nature of the Class A and Class B shares will not be rendered speculative.

Applicants' Conditions

Applicants agree that the order of the Commission granting the requested relief shall be subject to the following conditions:

1. Each class of shares will represent interests in the same portfolio of investments of a Fund, and be identical in all respects, except as set forth below. The only differences among the various classes of a Fund will relate solely to: (a) The different payments pursuant to the different 12b–1 Plans of each class; (b) the different Class Expenses, which will be limited to: (i) Transfer agency fees attributable to a particular class; (ii) printing and postage expenses related to preparing and distributing to a particular class materials such as shareholder reports, prospectuses, and proxy statements; (iii) state and federal registration fees incurred by a particular class; and (iv) legal expenses relating to a particular class; (c) the separate class voting rights of each class with respect to the 12b–1 Plans except as provided in condition 15 below, (d) the different exchange privileges of each class; (e) only Class B will have a conversion feature; and (f) the different name or designation of each class of shares of the Funds. Any additional expenses not specifically identified above that are subsequently identified and determined to be properly allocated to one class of shares shall not be so allocated until approved by the Commission.

2. The Directors of each Fund, including a majority of the Disinterested Directors of the Fund, shall have approved the Multiple Class Distribution System. The minutes of the meetings of the Directors of each Fund regarding the deliberations of the Directors with respect to the approvals necessary to implement the Multiple Class Distribution System will reflect in detail the reasons for the Directors' determination that the proposed Multiple Class Distribution System is in the best interests of Fund and its shareholders.

3. The initial determination of the Class Expenses that will be applied to a class of shares and any subsequent changes thereto will be reviewed and approved by votes of the Directors of each Fund, including a majority of the Disinterested Directors of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the Directors, and the Directors shall review, at least quarterly, a written report of the amount so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the Directors of each Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts among the interests of the various classes of shares. The Directors, including a majority of the Disinterested Directors of the Fund shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the Directors. If a conflict arises, the Adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. The Directors of each Fund will receive quarterly and annually Statements concerning distribution and shareholders servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the Statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to support the 12b–1 fee charged to shareholders of that class of shares. Expenditures not related to the sale or servicing of a particular class will not be presented to the Directors to justify any fee attributable to that class of shares. The Statements, including the allocations upon which they are based, will be subject to the review and approval of the Disinterested Directors in the exercise of their fiduciary duties.

6. Dividends paid by a Fund with respect to each class of shares, to the extent any dividends are paid, will be calculated in the same manner at the same time on the same day and will be in the same amount, except that 12b–1 Plan fee payments and Class Expenses relating to each respective class of

shares will be borne exclusively by that class.

7. The methodology and procedures for calculating the net asset value and dividends and distribution of the various classes and the proper allocation of income and expenses among such classes have been reviewed by an expert (the "Expert") who has rendered a report to Applicants, which has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to Section 30(a) and 30(b)(1) of the 1940 Act. The work papers of the Expert with respect to such reports, following the request by the Funds (which each Fund agrees to provide), will be available for inspection by the Commission staff upon the written request for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrator or Associate and Assistant Administrators. The initial report of the Expert is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. The applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions among the classes of shares and the proper allocation of income and expenses among such classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition 7 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 7 above. The applicants agree to take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

9. The prospectus of each Fund will contain a statement to the effect that a salespersons and any other person entitled to receive compensation for selling or servicing Fund shares may receive different compensation with respect to one particular class of shares over another in the Fund.

10. The Distributor will adopt compliance standards to assist registered representatives in determining when Class A and Class B shares may be sold to particular investors. The applicants will require all persons selling shares of the Fund to agree to conform to such standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Directors of each Fund with respect to the Multiple Class Distribution System will be set forth in guidelines that will be furnished to the Directors.

12. Each Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. Each Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. Each Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such Fund. To the extent any advertisement or sales literature describes the expenses of performance data applicable to Class A or Class B, it will disclose the expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will separately present Class A and Class B shares.

13. The applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization, or acquiescence in any particular level of payments that the Fund may make pursuant to their 12b–1 Plans in reliance on the exemptive order.

14. Class B shares will convert into Class A shares on the basis of the relative net asset values to the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in Article III, Section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

15. If a Fund implements any amendment to its 12b–1 plan (or, if presented to shareholders, adopts or implements any amendment of a non-rule 12b–1 shareholder services plan) that would increase materially the amount that may be borne by the Class A shares under the plan, existing Class B shares will stop converting into Class A unless the Class B shareholders, voting separately as a class, approve the proposal. The Directors shall take such action as is necessary to ensure that existing Class B shares are exchanged or converted into a new class of shares ("New Class A"), identical in all material respects to Class A as it existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Class A. If deemed advisable by the Directors to implement the foregoing, such action may include the exchange of all existing Class B shares for a new class ("New Class B"), identical to existing Class B shares in all material respects except that New Class B will convert into New Class A. New Class A or New Class B may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the Directors reasonably believe will not be subject to federal taxation. In accordance with condition 4 any additional cost associated with the creation, exchange, or conversion of New Class A or New Class B shall be borne solely by the Adviser and the Distributor. Class B shares sold after the implementation of the proposal may convert into Class A shares subject to the higher maximum payment, provided that the material features of the Class A plan and the relationship of such plan to the Class B shares are disclosed in an effective registration statement.

16. The relief requested from the provisions of sections 2(a)(32), 2(a)(35), 22(d), and 22(c) of the Act and rule 22c–1 thereunder shall be subject to applicants' compliance with the provisions of proposed Rule 6c–10 under the Act (Investment Company Release No. 16619 (November 2, 1988)), as such rule is currently proposed and as it may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5477 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 20112; 811–4902]

SLH Ohio Municipals Fund; Application

March 4, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: SLH Ohio Municipals Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on December 27, 1993, and amended on February 22, 1994.

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 March 29, 1994, 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 who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, at (202) 272–5287, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant was organized as a business trust under the laws of the Commonwealth of Massachusetts on October 21, 1986. Applicant is registered under the Act as an open-end nondiversified management investment company. On November 17, 1986, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and a registration statement on Form N–1A under section 8(b) of the Act and the Securities Act of 1933. The registration statement became effective on February 9, 1987, and the initial public offering of applicant's shares commenced immediately thereafter.

2. On January 17, 1990, applicant's Board of Trustees (the "Board") unanimously approved an agreement and plan of reorganization providing for the transfer of applicant's assets to SLH Managed Municipals Fund Inc. (the "Fund"),[1] a diversified management investment company organized as a Maryland corporation, in exchange for shares of the Fund and the assumption by the Fund of the stated liabilities of applicant. At the same time, the Board authorized all actions necessary to effect the reorganization of applicant. The Board approved the proposed reorganization because it believed that it would enhance the ability of the portfolio managers of the combined funds to effect portfolio transactions on more favorable terms, and give the portfolio managers greater investment flexibility, with the attendant ability to spread investment risks over a larger number of portfolio securities. The Board also anticipated that the proposed reorganization would permit the combined funds to obtain economies of scale by reading both fixed and variable costs of fund operations over a larger asset base.

3. Applicant and the Fund are affiliated persons of each other because they have a common investment adviser and common directors/trustees. Accordingly, the Board and the directors of the Fund made determinations pursuant to rule 17a–8 under the Act that participation in the proposed transaction was in the best interests of applicant and the Fund, and that the interests of applicant's existing shareholders and those of the Fund would not be diluted as a result of the transaction.[2]

4. On or about February 28, 1990, definitive proxy materials were mailed to shareholders, and were filed with the SEC. At a special meeting held on March 27, 1990, applicant's shareholders approved the Plan.

5. As of April 2, 1990, applicant had 320,612 shares outstanding with an aggregate net asset value of $3,387,436 and a net asset value per share of $10.57. Immediately prior to the transfer of assets, applicant paid a capital grain distribution of $.3687 per share to its shareholders. On April 2, 1990, applicant transferred all of its assets to the Fund in exchange for the assumption by the Fund of applicant's stated liabilities and shares of the Fund with an aggregate net asset value equal to the net asset value of the transferred assets. Applicant then distributed all such shares of the Fund *pro rata* to its shareholders, with each shareholder receiving shares of the Fund with an aggregate net asset value equal to the aggregate net asset value of their investment in applicant.

6. The expenses applicable to the reorganization, consisting of accounting, printing, administrative, and certain legal expenses, amounted to $8,000. These expenses were borne by applicant's investment adviser. No brokerage fees were incurred in connection with the transaction.

7. At the time of the application, applicant had no shareholders, assets, or liabilities, nor was it a party to any litigation or administrative proceedings. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

8. Applicant intends to file a letter of withdrawal with the Office of the Commonwealth of Massachusetts to effect the termination of applicant as a Massachusetts business trust.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5573 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 20113; 811–4912]

SLH Michigan Municipals Fund; Application

March 4, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("Act").

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[1] As of August 1, 1993, SLH Managed Municipals Fund Inc. changed its name of Smith Barney Shearson Managed Municipals Fund Inc.

[2] Rule 17a–8 provides relief from the affiliated transaction prohibition of section 17(a) of the Act for a merger of investment companies that may be affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

APPLICANT: SLH Michigan Municipals Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on December 27, 1993, and amended on February 22, 1994.

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 March 29, 1994, 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 who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Attorney, at (202) 272–5287, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant was organized as a business trust under the laws of the Commonwealth of Massachusetts on October 21, 1986. Applicant is registered under the Act as an open-end non-diversified management investment company. On November 24, 1986, applicant filed a notification of registration on Form N–8A under section 8(a) of the Act, and a registration statement on Form N–1A under section 8(b) of the Act and the Securities Act of 1933. The registration statement became effective on February 9, 1987, and the initial public offering of applicant's shares commenced immediately thereafter.

2. On January 17, 1990, applicant's Board of Trustee (the "Board") unanimously approved an agreement and plan of reorganization providing for the transfer of applicant's assets to SLH Managed Municipals Fund Inc. (the "Fund"),[1] a diversified management investment company organized as a Maryland corporation, in exchange for shares of the Fund and the assumption by the Fund of the stated liabilities of applicant. At the same time, the Board authorized all actions necessary to effect the reorganization of applicant. The Board approved the proposed reorganization because it believed that it would enhance the ability of the portfolio managers of the combined funds to effect portfolio transactions on more favorable terms, and give the portfolio managers greater investment flexibility, with the attendant ability to spread investment risks over a larger number of portfolio securities. The Board also anticipated that the proposed reorganization would permit the combined funds to obtain economies of scale by spreading both fixed and variable costs of fund operations over a larger asset base.

3. Applicant and the Fund are affiliated persons of each other because they have a common investment adviser and common directors/trustees. Accordingly, the Board and the directors of the Fund made determinations pursuant to rule 17a–8 under the Act that participation in the proposed transaction was in the best interests of applicant and the Fund, and that the interests of applicant's existing shareholders and those of the Fund would not be diluted as a result of the transaction.[2]

4. On or about February 28, 1990, definitive proxy materials were mailed to shareholders, and were filed with the SEC. At a special meeting held on March 27, 1990, applicant's shareholders approved the Plan.

5. As of April 2, 1990, applicant had 231,495 shares outstanding with an aggregate net asset value of $2,546,881 and a net asset value per share of $11.00. Immediately prior to the transfer of assets, applicant paid a capital gain distribution of $.05978 per share to its shareholders. On April 2, 1990, applicant transferred all of its assets to the Fund in exchange for the assumption by the Fund of applicant's stated liabilities and shares of the Fund with an aggregate net asset value equal to the net asset value of the transferred assets. Applicant then distributed all such shares of the Fund *pro rata* to its shareholders, with each shareholder receiving shares of the Fund with an aggregate net asset value equal to the aggregate net asset value of their investment in applicant.

6. The expenses applicable to the reorganization, consisting of accounting, printing, administrative, and certain legal expenses, amounted to $8,000. These expenses were borne by applicant's investment adviser. No brokerage fees were incurred in connection with the transaction.

7. At the time of the application, applicant had no shareholders, assets, or liabilities, nor was it a party to any litigation or administrative proceedings. Applicant is not engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

8. Applicant intends to file a letter of withdrawal with the Office of the Commonwealth of Massachusetts to effect the termination of applicant as a Massachusetts business trust.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5574 Filed 3–9–94; 8:45 am]

BILLING CODE 8010–01–M

[1] As of August 1, 1993, SLH Managed Municipals Fund Inc. changed its name to Smith Barney Shearson Managed Municipals Fund Inc.

[2] Rule 17a–8 provides relief from the affiliated transaction prohibition of section 17(a) of the Act for a merger of investment companies that may be affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

DEPARTMENT OF STATE

[Public Notice 1961]

Advisory Committee to the United States Section International Commission for the Conservation of Atlantic Tunas; Open Meeting

The Advisory Committee of the United States Section of the International Commission for the Conservation of Atlantic Tunas (ICCAT) will meet on March 24, 1994, at the Guest Quarters Hotel at Baltimore/Washington International Airport, Linthicum, Maryland. The meeting will be open to the interested public and will begin at 1 p.m. and adjourn at 5 p.m. The Committee will consider reports from its Species Working Groups, discuss the Working Group reports, and consider recommendations to the Advisory Committee.

Requests for further information on the meeting should be directed to Mr. Brian S. Hallman, Deputy Director, Office of Marine Conservation (OES/OMC), Room 5806, U.S. Department of State, Washington, D.C. 20520–7818. Mr. Hallman can be reached by telephone on (202) 647–2335 or by FAX on (202) 736–7350.

Dated: February 25, 1994.

David A. Colson,

Deputy Assistant Secretary for Oceans.

[FR Doc. 94–5603 Filed 3–9–94; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement: Cincinnati/Northern Kentucky International Airport; Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration announces that it will prepare an Environmental Impact Statement (EIS) for implementation of the Federal Aviation Regulation (FAR) part 150 Noise Compatibility Program (NCP) at Cincinnati/Northern Kentucky International Airport.

FOR FURTHER INFORMATION CONTACT: Peggy S. Kelley, Federal Aviation Administration, Airports District Office, 2851 Directors Cove, suite 3, Memphis, Tennessee 38131–0301. Telephone 901–544–3495.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration will prepare an EIS for implementation of the part 150 Noise Compatibility Program at Cincinnati/Northern Kentucky International Airport. If it is determined during the course of the study that the environmental impacts are not significant, FAA will terminate the EIS process, complete the study as an Environmental Assessment and issue a Finding of No Significant Impact (FONSI).

The Kenton County Airport Board submitted its Noise Compatibility Program to the FAA. The NCP was subsequently approved by the FAA on October 25, 1993, with some of the recommended measures being subject to applicable environmental requirements before their implementation. The Kenton County Airport Board has requested the FAA implement the operational measures. The NCP includes changes in aircraft departure tracks, preferential runway usage, a proposed 1,500 foot extension to Runway 18R–36L, and land use measures. Another recommended measure, to extend Runway 9–27 from 7,800 feet to 10,000 feet, was evaluated independently in an Environmental Assessment (EA) and a Finding of No Significant Impact was issued in November 1993. Runway 9–27 is the identified preferred nighttime departure runway.

The Kenton County Airport Board has conducted numerous workshops and a public hearing during the development of the NCP. Workshops and a public hearing were also held on the EA for the extension to Runway 9–27. In addition, the meetings of the Aviation Noise Abatement Committee are shown on local cable television. Federal Aviation Administration representatives attended the workshops and public hearings and received numerous letters and petitions on the NCP. Because of the widespread publicity and these previous opportunities for public comment, no general public scoping meetings will be held. FAA intends to consult and coordinate with Federal, State and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed project. The meeting for public agencies will be held at Cincinnati/Northern Kentucky International Airport Board Room, located on the second level of Terminal One at the Airport, at 1 p.m., Tuesday, April 5, 1994. FAA will also solicit input from the part 150 Study Planning Advisory Committee and the Aviation Noise Abatement Committee at a meeting to be held in the Navigation Room of the River Queen Restaurant, second level, Terminal One, at 6:30 p.m., Tuesday, April 5, 1994. In addition, the public may submit written comments on the scope of the environmental study to the address identified in "FOR FURTHER INFORMATION CONTACT." Comments should be submitted by April 9, 1994.

Issued on March 3, 1994.

Billy J. Langley,

Manager, Memphis Airports District Office.

[FR Doc. 94–5562 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Modesto City-County Harry Sham Field Airport, Modesto, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 11, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Airports Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA. 90009 or San Francisco Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Howard Cook, Airport Manager of the Modesto City-County Airport at the following address: 617 Airport Way, Modesto, California 95354. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Modesto under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Rodriguez, Supervisor, Planning and Programming Section, Airports District Office, 831 Mitten Road, room 210, Burlingame, CA. 94010–1303, Telephone: (415) 876–2805. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Modesto City-County Harry Sham Field Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 18, 1994, the FAA determined that the application to impose and use a PFC submitted by the city of Modesto was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 23, 1994.

The following is a brief overview of the application.

Level of proposed PFC: $3.00.

Proposed charge effective date: October 1, 1994.

Proposed charge expiration date: September 30, 2000.

Total estimated PFC revenue: $300,370.00.

Brief description of the proposed projects:

Impose and Use Projects: Airfield Sign Upgrade, Pavement Rehabilitation, Passenger Lift Vehicle, Airport Way Resurface and Extension, General Aviation Apron Slurry, Passenger

Terminal Parking Lot, General Aviation & Terminal Security Lights, and Rewire Runway & Taxiways lights.

Impose Only Projects: Airport Perimeter Security Upgrade, Widen Air Carrier & Transient Apron, Construct Runway 10L/28R Holding Bays, Taxiway B & Miscellaneous General Aviation Area Pavement Rehabilitation and Air Carrier Apron Expansion, Runway 10R/28L Pavement Overlay, and Relocate Runway 10R/28L Edge Lights.

For projects involving discretionary funds, the amount of funds may be reduced depending on the funding level.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Tax Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: 15000 Aviation Blvd., Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Modesto, CA.

Issued in Hawthorne, California, on February 24, 1994.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 94–5564 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Adair County, MO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in Adair County, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Neuman, Federal Highway Administration, P.O. Box 1787, Jefferson City, MO 65102, Telephone Number 314–636–7104; or Mr. Bob Sfreddo, Design Engineer, Missouri Highway and Transportation Department, P.O. Box 270, Jefferson City, MO 65102, Telephone Number 314–751–2876.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Highway and Transportation Department (MHTD), will prepare an environmental impact statement (EIS) on a proposal to upgrade U.S. Route 63 to a dual-lane facility starting approximately 1.5 miles south of Missouri Route T and continuing to a point approximately 1 mile south of Missouri Route KK in Adair County, Missouri. An MHTD reconnaissance report determined that the upgrade of U.S. Route 63 would accomplish several goals: (1) Provide a dual-lane bypass around the city of Kirksville, (2) improve safety and capacity for through-traffic on U.S. Route 63, and (3) promote economic development and planned growth in Kirksville and Adair County.

1. The proposed highway project begins approximately 1.5 miles south of Missouri Route T in Adair County and runs generally southeast for 11.2 miles where it rejoins existing U.S. Route 63 approximately 1 mile south of Missouri Route KK. The proposed facility would provide a four-lane, limited-access roadway with at-grade intersections or interchanges at major arterial crossroads.

2. Alternatives under consideration include "build" alternatives and a "no build" alternative, as well as mass transit and transportation system management options.

3. To date, preliminary information has been issued to local officials and other interested parties. The scoping process will be initiated with Federal, State, and local agencies as the study progresses. Further public hearings will be held. To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Any comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the Missouri Highway and Transportation Department at the addresses provided above.

Issued on February 2, 1994.

Donald Neumann,

Program Review Engineer, Jefferson City.

[FR Doc. 94–5602 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

[Docket No. 93–59; Notice 02]

Tradewinds Conversions, Inc., Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Tradewinds Conversions, Inc. ("Tradewinds") of Elkhart, Indiana, an alterer of motor vehicles, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*). Tradewinds had petitioned for an exemption on the basis that a noncompliance in its conversions is inconsequential as it relates to motor vehicle safety. The noncompliance is related to the performance of its mid-position pedestal seats, Part# FDN–200.

Notice of receipt of the petition was published in the **Federal Register** on October 4, 1993, and an opportunity afforded for comment (58 FR 51667).

For the type of seats concerned in the petition, current FMVSS Nos. 207 and 210 test procedures specify simultaneous loading of seat assemblies and seat belts with the seat loads applied at the center of gravity of the seat assembly. Paragraphs S4.2(a), S4.2(b), S4.2(c), and S4.2(d) of Standard No. 207 require that each occupant seat, other than a side-facing seat or a passenger seat on a bus, shall withstand the following forces:

S4.2(a)/S4.2(b). In any position to which it can be adjusted—apply forces 20 times the weight of the seat in a forward longitudinal direction; and rearward longitudinal direction through the center of gravity of the seat.

S4.2(c). For a seat belt assembly attached to the seat—the force specified in S4.2(a) and S4.2(b), in each case applied simultaneously with the forces imposed on the seat by the seat belt assembly when it is loaded in accordance with S4.2 of Standard No. 210; and

S4.2(d). In its rearmost position—a force that produces a 3,300 in-pound moment about the seating reference for each designated seating position * * *.

Also, paragraph S4.2, "Strength," of FMVSS No. 210 requires that each occupant seat, other than side-facing seats, the anchorages, attachment hardware, and attachment bolts * * * shall withstand a 5,000-pound force when tested in accordance with S5.1, "Seats with Type 1 or Type 2 seat belt anchorages."

Tradewinds determined that there was a noncompliance of its conversion when Part # FDN–200, quick release pedestals, using the current NHTSA FMVSS Nos. 207 and 210 test procedures. The noncompliance occurred when the test results showed that the latching pin in the quick release pedestal "would not consistently reach" the maximum test loading requirements of the Standards. Approximately 200 van conversions are involved.

Tradewinds supported its petition for exemption by stating that when Part # FDN–200 pedestals were tested under test procedures that have been proposed by NHTSA, with split loading of pedestal and seat assembly, all requirements were met. The new test

procedure that Tradewinds is referring to is a rulemaking proposal to amend Standard No. 207 specifically for pedestal seating systems (Notice of Proposed Rulemaking (NPRM), (55 FR 33141, August 14, 1990); Supplemental Notice of Proposed Rulemaking (SNPRM), (58 FR 12921, March 8, 1993). Basically, the proposal would allow manufacturers the choice of using either the current procedure or the new procedure for testing most pedestal seats. The current procedure requires a single load be applied through the center of gravity of the entire assembly. The proposed procedure would permit the load to be split and applied simultaneously through the pedestal and through the seat.

The manufacturer of Part # FDN–200, Boss Manufacturing and Distributing, Inc. (Boss), furnished NHTSA with data on tests conducted by General Testing Laboratories on a 1993 Dodge "B" van using the procedure proposed in the SNPRM. Boss stated that the mid-position, quick release pedestal seat could withstand the proposed FMVSS No. 207 and the current FMVSS No. 210 testing. Boss also stated the pedestal seat would not consistently reach the current maximum requirements. Based on the test results submitted to NHTSA, Tradewinds concluded that the quick release pedestal seat can meet the test loading requirements of FMVSS Nos. 207 and 210 if the proposed new test procedure with spilt loading is permitted.

No comments were received on the petition.

Petitioner's sole inconsequently argument is that the vehicle would conform were it tested in a manner proposed by NHTSA. However, the proposed test procedure is addressed to seat adjustors and not pedestal anchorages. The test results would be the same for pedestal anchorages regardless of whether the proposed or current test method is used. This means that Tradewinds conversions would continue to manifest test failures even if the new test procedures were adopted.

In addition, Tradewinds did not quantify the test failures that led to its petition. NHTSA requested that Tradewinds provide test data on the extent of its noncompliance. However, the only data provided in response to this request were related to the proposed test procedure. No data were provided regarding margins of failure under the existing test procedure. This, NHTSA has no information as to whether the margin of failure was large or small.

Accordingly, petitioner has failed to meet its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is denied.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50)

Issued on: March 7, 1994.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 94–5567 Filed 3–9–94; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

March 2, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0917.

Regulation ID Number: LR–170–84 TEMP.

Type of Review: Extension.

Title: Effective Dates of the Economic Performance Requirement.

Description: The regulations provide the time and manner of making certain elections relating to the effective date of the economic performance requirement. The information is needed and will be used to assure compliance with the effective date provisions. All accrual basis taxpayers that make an election are affected by the reporting and recordkeeping requirements of the regulations.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/ Recordkeepers: 500.

Estimated Burden Hours Per Respondent/Recordkeeper: 3 hours.

Frequency of Response: Other (one report required).

Estimated Total Reporting/ Recordkeeping Burden: 1,584 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–5469 Filed 3–9–94; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1994

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New collection.

Title: Human Factors Lab and Focus Group Testing of Answer-Sheet Style Form 1040 Packages (Simple and Regular Forms 1040)

Description: Results of Laboratory (2,005 participants) and Focus Group (486 participants) testing will be used by IRS to finalize the design of machine-readable answer-sheet forms for the Tax Systems Modernization program. This request is for a single series of tests to be conducted between April 1994 and September 1995.

Respondents: Individuals or households

Estimated Number of Respondents: 20,050

Estimated Burden Hours Per Respondent:

Human Factor Test—1 hour
Exit Questionnaire—15 minutes
Focus Group Discussion—1 hour, 30 minutes
Travel (Round Trip)—1 hour
Implementation of Screening Instrument—5 minutes

Frequency of Response: Other (one-time test series)

Estimated Total Reporting Burden: 7,725 hours

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–5470 Filed 3–9–94; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0073.

Form Number: ATF F 5150.19.

Type of Review: Extension.

Title: Formula and/or Process for Articles Made with Specially Denatured Spirits.

Description: ATF F 5150.19 is completed by persons who use specially denatured spirits in the manufacture of certain articles. ATF uses the information provided on the form to insure the manufacturing formulas and processes conform to the requirements of 26 U.S.C. 5273.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 2,711.

Estimated Burden Hours Per Respondent: 54 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,440 hours.

OMB Number: 1512–0075.

Form Number: ATF F 5150.18.

Type of Review: Extension.

Title: User's Report of Denatured Spirits.

Description: The information on ATF F 5150.18 is used to pinpoint unusual activities in the use of specially denatured spirits. The form shows a summary of activities at permit premises. ATF examines and verifies certain entries on these reports to identify unusual activities, errors and omissions.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 2,711.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 813 hours.

OMB Number: 1512–0207.

Form Number: ATF REC 5110/04–ATF F 5110.43.

Type of Review: Extension.

Title: Distilled Spirits Plant (DSP) Denaturation Records and Reports.

Description: The information collected is necessary to account for and verify the denaturation of distilled spirits. It is used to audit plant operations, monitor the industry for the efficient allocation of personnel resources, and compile statistics for government economic planning.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 101.

Estimated Burden Hours Per Respondent/Recordkeeping: 1 hour.

Frequency of Response: Monthly.

Estimated Total Reporting/Recordkeeping Burden: 1,212 hour.

OMB Number: 1512–0250.

Form Number: ATF REC 5110/5.

Type of Review: Extension.

Title: Distilled Spirits Plant (DSP) Transaction and Supporting Data.

Description: Transaction records provide the source data for accounts of distilled spirits in all DSP operations. They are used by DSP proprietors to account for spirits and by ATF to verify those accounts and consequent tax liabilities.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 274.

Estimated Burden Hours Per Recordkeeper: 20 hours.

Frequency of Response: Other.

Estimated Total Recordkeeping Burden: 5,480 hours.

OMB Number: 1512–0462.

Form Number: ATF REC 5110/09.

Type of Review: Extension.

Title: Registration and Records of Vinegar Vaporizing Plants.

Description: Data is necessary to identify persons producing and using distilled spirits in the manufacture of vinegar and to account for spirits so produced and used.

Respondent: Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 5.

Estimated Burden Hours Per Respondent/Recordkeeping: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 5 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–5471 Filed 3–9–94; 8:45 am]

BILLING CODE 4810–31–M

Public Information Collection Requirements Submitted to OMB for Review

March 3, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0466.

Form Number: ATF REC 5110/12.

Type of Review: Extension.

Title: Equipment and Structures.

Description: Marks, signs and calibrations are necessary on equipment and structures at a distilled spirits plant for the identification of major equipment and of the accurate determination of contents.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Recordkeepers: 281.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1 hour.

OMB Number: 1512–0466.

Form Number: ATF REC 5170/7.

Type of Review: Extension.

Title: Alternate Methods or Procedures and Emergency Variations from Requirements for Exports of Liquors.

Description: ATF allows exporters of liquors to apply for and receive approval of variances from the requirements of regulations under 27 CFR part 252. ATF uses the application to evaluate need, jeopardy to the revenue and compliance with the law.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 200 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 94–5472 Filed 3–9–94; 8:45 am]

BILLING CODE 4810–31–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Termination of Sanctions With Respect to the Federal Republic of Germany Pursuant to Title VII of the Omnibus Trade and Competitiveness Act of 1988

AGENCY: Office of the United States Trade Representative.

ACTION: Termination of sanctions imposed on the Federal Republic of Germany under Title VII of the Omnibus Trade and Competitiveness Act of 1988.

SUMMARY: The U.S. Trade Representative has determined to terminate sanctions imposed on the Federal Republic of Germany on May 28, 1993 (58 FR 31136) on the basis of assurances from Germany that it would not apply the discriminatory provisions of the Utilities Directive of the European Union to procurement of U.S. goods by its telecommunications utilities. The termination of sanctions is effective upon publication of this notice. A copy of the USTR's determination is attached.

FOR FURTHER INFORMATION CONTACT: Mark Linscott, Office of GATT Affairs (202–395–3063), or Laura B. Sherman, Office of the General Counsel (202–395–3150), Office of the United States Trade Representative, 600 Seventeenth Street NW., Washington, DC 20506.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

Determination Under Title VII of the Omnibus Trade and Competitiveness Act

On May 28, 1993, the United States imposed sanctions on nine member states of the European Union under Title VII of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2515, as amended) for maintaining, in government procurement of telecommunications goods, a significant and persistent pattern or practice of discrimination against U.S. products or services that results in identifiable harm to U.S. businesses (58 FR 31136).

I have received official assurances from the Federal Republic of Germany that: (1) Telecommunications entities owned in whole or in part or controlled by the German Government apply national treatment towards U.S. goods and suppliers; (2) Germany will not apply Article 29 of the Utilities Directive against U.S. goods and suppliers; and (3) Germany is not applying the counter-sanctions imposed by the European Union against U.S. goods and suppliers.

Pursuant to the authority vested in me by the President of the United States by Presidential Determination No. 93–16, I have determined that the Federal Republic of Germany has eliminated the discrimination identified under Title VII and have therefore terminated sanctions effective upon the publication of this determination in the **Federal Register**.

Michael Kantor,

United States Trade Representative.

[FR Doc. 94–5497 Filed 3–9–94; 8:45 am]

BILLING CODE 3190–01–M

Guidelines for U.S. Implementation of the Agreement Between the U.S. and Russian Federation Government Regarding International Trade in Commercial Space Launch Services

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of guidelines for U.S. implementation of the agreement between the Government of the United States of America and the Government of the Russian Federation regarding international trade in commercial space launch services.

DATES: The Agreement entered into force on September 2, 1993. These guidelines on monitoring and enforcement are effective upon publication.

FOR FURTHER INFORMATION CONTACT: Scott Monier, (202) 395–3320, Director for European Industry and Technology, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20506. (Copies of the Agreement referenced herein can be obtained from the official designated above.)

SUMMARY: On September 2, 1993, the United States and the Russian Federation entered into the Agreement Between the Government of the United States of America and the Government of the Russian Federation Regarding International Trade in Commercial Space Launch Services (Agreement). The Agreement allows the Russian Federation (Russia) to enter the international commercial space launch market during the country's transition to an economy based on market principles in a manner intended to prevent disruption of normal competition. In order to assist in the successful operation of the Agreement, the U.S. Government has established certain guidelines it intends to follow in implementing the Agreement. This notice sets out those guidelines.

SUPPLEMENTARY INFORMATION

Background

At the June 1992 Summit between former President Bush and Russian President Yeltsin, the United States announced that it was granting a one-time exception to its policy of prohibiting the export of U.S.-made satellites or satellites incorporating U.S. technology (essentially all Western satellites) to Russia for launch on Russian space launch vehicles. This one-time exception allowed the International Maritime Satellite Organization (INMARSAT) to select a Russian launcher to launch an INMARSAT 3 satellite. At the same time, the United States stated that, while no further exceptions would be granted, it was willing to undertake negotiations on Russian entry into the international commercial space launch services market. The negotiations culminated in an agreement which would provide Russia, during its transitional phase from a non-market to market economy, access to the international commercial launch services market yet ensure against severe market distortion or disruption to the market. The Agreement was signed by Vice President Gore and Russian Prime Minister Chernomyrdin and entered into force on September 2, 1993.

The Agreement

Definition of Terms

The Agreement defines certain terms, as follows:

Contract means (i) to agree or commit to the provision of commercial space launch services such that a launch is

effectively removed from competition in the international market, or (ii) any such agreement or commitment.

International customer means any person; or any kind of corporation, company, association, venture, partnership, or other entity, whether or not organized for pecuniary gain, or privately or governmentally owned or controlled; or any governmental body, excluding the Government of the United States of America and the Government of the Russian Federation; or any intergovernmental organization or quasi-governmental consortium, including but not limited to INTELSAT, INMARSAT and their respective legal successors, that is the ultimate owner or operator of a spacecraft or satellite or that will deliver the spacecraft or satellite to orbit for use by such ultimate owner or operator.

Principal payload means a telecommunications satellite or, in the absence of a telecommunications satellite, any other spacecraft or combination of spacecraft.

Russian space launch service provider means any entity, agent or instrumentality acting on its behalf, permitted by the Government of the Russian Federation to provide commercial space launch services or the space launch vehicles for such services.

Agreement Terms

The Agreement establishes basic rules for avoiding distortion which results from government involvement in the commercial space launch market by prohibiting such practices as certain subsidies, marketing inducements, and corrupt business practices. The terms of the Agreement also include the following specific provisions:

Quantity Provisions

The Agreement permits Russian space launch services providers to contract with international customers for the launch of up to eight (8) principal payloads, in addition to the INMARSAT–3 satellite, to geosynchronous earth orbit (GEO) or geosynchronous transfer orbit (GTO), for the duration of the agreement (through December 31, 2000). Not more than two (2) such launches may be conducted in any twelve-month period.

Up to four (4) of these launches may be of two principal payloads, and each of these may be counted against the quantity limitation as single launches if the parties mutually agree that the international space launch market so warrants.

The Agreement also allows Russian space launch service providers to contract for up to three (3) launches to low earth orbit (LEO) for the Iridium system. Proposals by Russian space launch service providers for commercial suborbital launches LEO and launches to orbits other than GEO and GTO will be considered on a case by case basis, where there are competing comparable commercial space launch services.

Pricing Provisions

The Agreement provides that prices, terms, and conditions offered by Russian space launch service providers shall be comparable to those offered for comparable space launch services by commercial launch service providers from market economy countries. For GEO and GTO launches, the Agreement establishes a specific pricing mechanism. Bids or offers for launches to GEO or GTO more than 7.5% below the lowest market economy bid trigger special consultations in which Russia must demonstrate that its offer conforms to the principles of the Agreement. Bids or offers for Russian launch services to orbits other than GEO/GTO are not subject to a specific pricing mechanism; however, prices, terms, and conditions must be comparable to those offered by providers from market economy countries. Accordingly, the comparable pricing provision of the Agreement applies to all launches by Russian space launch service providers, including those to LEO.

The pricing provisions of the Agreement apply to bids or offers made as part of a sole-source procurement as well as to completed contracts.

Consultations

The Agreement requires the United States and Russia to hold annual consultations to "* * * review and examine implementation of the Agreement and market developments in commercial space launch services." The Agreement also allows the United States or Russia to request special consultations "on an urgent basis" prior to the conclusion of a contract, if possible, if either Party has reason to believe that a contract or pending contract is inconsistent with the terms of the Agreement.

Applicability Guidelines

Russian Launch Vehicles

All types or classes of launch vehicles that may be used by a Russian space launch service provider to provide commercial space launch services are subject to the Agreement.

Russian Space Launch Service Providers

Transactions involving launch service providers, regardless of nationality, permitted by the Russian Federation to provide commercial space launch services on Russian launch vehicles are subject to the terms of the Agreement.

Leasing on-Orbit

Leasing a satellite on orbit or satellite transponders does not remove a transaction from the terms of the Agreement. As a general rule, the Agreement applies to a contract calling for the leasing of a satellite on-orbit as to one requiring the launch of a satellite purchased by the customer. The definition of "international customer" as defined in the Agreement makes no distinction based upon the financing arrangement selected for the satellite. There will be no special consideration given to leased satellites launched solely for use by an international customer.

Nationality of Satellite Manufacturer

The terms of the Agreement apply to all satellites, regardless of the manufacturer's nationality. The Agreement is intended to be neutral in its effects on the satellite market.

Contracts Signed Prior to the Agreement

Contracts signed prior to the Agreement for the launch of a satellite subject to United States export controls will be considered under the terms of the Agreement.

Contracts signed prior to the Agreement for the launch of a Russian-built satellite for purchase or lease by an international customer are excluded from the terms of the Agreement.

Options Agreements/Reservations

An option agreement or reservation for Russian commercial space launch services, entered into on or before September 2, 1993, is subject to the terms and provisions of the Agreement.

Monitoring and Enforcement

A. *Designation of Responsibility*

The Trade Policy Staff Committee Subcommittee on Russian Space Launch Services (Subcommittee), will be responsible for overall implementation of the Agreement.

B. *Subcommittee Organization*

For purposes of carrying out its responsibilities with respect to overall implementation of the Agreement, the Subcommittee will be chaired by the Office of the United States Trade Representative (USTR) and will be composed of the Departments of Transportation, State, Commerce, Justice, Defense and Treasury, the Office of Management and Budget (OMB), the National Aeronautics and Space Administration (NASA), the Office of

Science and Technology Policy (OSTP), the Joint Chiefs of Staff, and such other departments and agencies as may be invited by the Chair to participate. A Working Group on Information (WGI) will be established to assemble such information as is necessary to enable the Subcommittee to carry out its responsibilities. The WGI will be chaired by the Department of Transportation (DOT) and will include the Departments of Commerce, State, Defense, and such other departments or agencies as designated by the Chair of the Subcommittee.

C. *Monitoring and Data Collection*

The Subcommittee will monitor Russian compliance with the Agreement. To this end, the Subcommittee will review market and other information relevant to participation in the commercial launch services market by Russian space launch service providers and compliance by those providers with the terms of the Agreement. This information will be assembled, together with a preliminary assessment, and presented to the Subcommittee by the WGI. In monitoring Russian compliance with the Agreement, particular attention will be given to information on the number of contracts with international customers and the distribution of contracts by Russian space launch service providers within any twelve-month period; prices, terms and conditions offered or provided by Russian space launch service providers; unfair business practices; grants and subsidies to commercial space launch services suppliers; inducements to international customers; insurance or reflight guarantees; and government-supported financing for commercial space launch vehicles or services except in accord with the Organization for Economic Cooperation and Development's (OECD) "Arrangement on Guidelines for Officially-Supported Export Credits."

The Subcommittee will review and determine which information is to be provided to Russia to comply with U.S. obligations under the Agreement. This information will be assembled, together with a preliminary assessment, and presented to the Subcommittee by the WGI in a timely fashion so that it could then be made available to Russia in accordance with the terms of the Agreement.

Particular attention will be given to U.S. obligations under the Agreement with respect to the provision of publicly releasable information to Russia on prices, terms, and conditions offered in the international market for commercial launch services, including insurance arrangements relating to such services.

The WGI will periodically produce information and preliminary assessments of conditions in the commercial launch services market, including prices, terms and conditions, commitments, and market forecasts for the Subcommittee as needed to implement effectively the Agreement and at least 30 days prior to annual consultations.

The WGI will also provide to the Subcommittee such additional information and preliminary assessments on compliance by Russian space launch service providers with the provisions of the Agreement as needed, and at least 30 days prior to annual consultations, or as needed prior to any additional or special consultations.

D. *Consultations*

The Subcommittee will hold annual consultations with the Russian Federation as outlined in the Agreement. The Subcommittee will exchange information with Russian authorities in advance of such consultations.

The Subcommittee will meet in advance of the annual consultations. The Subcommittee will provide all information, including prices, terms and conditions offered for commercial space launch services, necessary to monitor the Agreement and carry out regular and special consultation. Such information shall be provided to U.S. and/or Russian government authorities promptly, and in any case, no later than 30 days after a request, except that such information need not be provided prior to bids for commercial space launch services.

Following consultations, the Subcommittee will also report on the results of the consultations and recommend any follow-up actions to the TPSC or other appropriate government agencies.

The Subcommittee will consider whether consultations with other international parties could be beneficial, by aiding in the monitoring of the Agreement. If the Subcommittee determines that consultations could be beneficial, it will recommend to the TPSC and to the USTR that such consultations be initiated.

The Subcommittee and the WGI may, in carrying out the functions and procedures set forth herein, consult with U.S. commercial launch services providers, launch vehicle and satellite manufacturers, and, as appropriate, interested Congressional committees, the user community, and other interested parties, including the relevant private sector advisory committees. Such contacts will be made in conjunction with the information collection and assessments referred to herein and U.S. preparation for, and follow-up on the results of, meetings with Russia held under the Agreement. The Subcommittee will also, as appropriate, inform such interested parties of significant requests or notifications made by Russia under the Agreement, or significant developments under the Agreement.

E. Information Sharing

In the course of consulting with interested parties, in particular prior to annual consultations under the Agreement, the U.S. Government may provide such information provided by Russia as is allowed and appropriate under the Agreement, subject to business confidentiality.

F. Collection of Information

DOT, as Chair of the WGI, will have primary responsibility for soliciting and receiving relevant information, and will maintain data to be collected and reviewed by the WGI for purposes of this Agreement.

Members of the U.S. industry, and other interested members of the public, are invited to submit written comments on issues related to the Agreement and its operation. Comments must be provided in twenty copies to the DOT Office of Commercial Space Transportation, Attention: Working Group on Information for Russian Space Launch Services, 400 7th Street, SW., room 5408, Washington, DC 20590–0001.

Submissions from the public will be placed in a file open to public inspection at the above address pursuant to 15 CFR § 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked "Business Confidential" at the top of the cover page or letter and each succeeding page, and must be accompanied by a nonconfidential summary of the confidential information.

G. Enforcement

If the Subcommittee is of the view that the provisions of the Agreement have been violated as a result of information obtained in any annual or special consultation and review required under Article VII of the Agreement or on the basis of information presented to it by the WGI, the Subcommittee will notify the TPSC and recommend consultations with

Russia. If consultations proceed and satisfactory resolution is not achieved with Russia, or if consultations are deemed to be inappropriate in the circumstances, based on recommendations of the Subcommittee, the Section 301 Committee may be requested to review the case.

The USTR will, from time to time, advise the Secretary of State and the Secretary of Commerce of the status of the implementation of the agreement in order that this information may be available to the Secretaries with respect to the State Department export license responsibilities under the Arms Export Control Act and the implementing regulations, the International Traffic in Arms Regulations, 22 CFR parts 120–130 and the Commerce Department export license responsibilities under the Export Administration Act.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 94–5498 Filed 3–9–94; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 47
Thursday, March 10, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 8681 February 23, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m. (Eastern Time) Tuesday, March 8, 1994.

CHANGE IN THE MEETING:

Closed Session

The closed portion of the meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: March 8, 1994.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 94–5695 Filed 3–8–94; 11:24 am]

BILLING CODE 6750–06–M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 94–5052.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, March 10, 1994, 10 a.m., Meeting Open to the Public.

The following items were added to the agenda:

Advisory Opinion 1994–1: Robert Schramm on behalf of the Western Pistachio Association (continued from meeting of March 3, 1994).

Legislative Recommendations—1994 (continued from meeting of March 3, 1994).

PERSON TO CONTACT FOR INFORMATION: Press Officer, Telephone: (202) 219–4155.

Delores Hardy

Administrative Assistant.

[FR Doc. 94–5664 Filed 3–8–94; 11:09 am]

BILLING CODE 6715–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–94–08]

TIME AND DATE: March 14, 1994 at 10 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436

STATUS: Open to the public

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–683 (Preliminary) (Fresh Garlic From China)—briefing and vote.
5. Outstanding action jackets—
   1. GC–94–009, Request for termination, or in the alternative steps to reinitiate Inv. Nos. 731–TA–678–682 (Preliminary) (Stainless Steel Bar from Brazil, India, Italy, Japan, and Spain).
   2. OP–94–001, Outline for Inv. No. 332–344, Economic Effects of Antidumping Duty and Countervailing Duty Orders and Suspension Agreements.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205–2000.

Issued: March 7, 1994.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–5663 Filed 3–8–94; 11:08 am]

BILLING CODE 7020–02–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business requires that the previously announced open meeting (**Federal Register,** Vol. 59, March 4, 1994, page 10460) scheduled for Wednesday, March 9, 1994, will include the following additional item:

3. Policy Statement on Fair Lending.

The Board voted unanimously to add this item to the open agenda. Earlier announcement of this change was not possible.

The previously announced items are:

BOARD BRIEFINGS:

1. Central Liquidity Facility Report and Report on CLF Lending Rate.
2. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Proposed Rule: Request for Comment: Section 701.21, NCUA's Rules and Regulations: Prohibited Fees.

The Meeting is scheduled for 1 p.m., in the Board room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 94–5735 Filed 3–8–94; 2:00 pm]

BILLING CODE 7535–01–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: Tuesday March 22, 1994, 1 p.m. (Open Portion), 1:30 p.m. (Closed Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

STATUS: The first part of the meeting, from 1 p.m. to 1:30 p.m. will be Open to the public. The Closed portion will commence at 1:30 p.m. (approximately).

MATTERS TO BE CONSIDERED:

1. President's Report.
2. Approval of 9/21/93 Minutes (Open Portion).
3. Recommendation for meeting schedule through end of June 1994.

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 1:30 p.m.)

1. Finance Projects in Russia.
2. Finance Project in Russia.
3. Finance Project in Russia.
4. Finance Project in Russia.
5. Finance and Insurance Joint Project in Russia.
6. Insurance Project in Russia.
7. Insurance Project in Philippines.
8. Insurance Project in Indonesia.
9. Finance and Insurance Joint Project in India.
10. Finance and Insurance Project in Africa.
11. Finance Project in Hungary.
12. Insurance Project in Hungary.
13. Insurance Project in Poland.
14. Pending Major projects.
15. Board Procedures.
16. Approval of the 9/21/93 Minutes (Closed Portion).

CONTACT PERSON FOR INFORMATION: Information with regard to the meeting may be obtained from the Corporation Secretary on (202)–336–8403.

Dated: March 7, 1994.

Anne H. Smart,

OPIC Corporate Secretary.

[FR Doc. 94–5696 Filed 3–8–94; 11:23 am]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 14, 1994.

A closed meeting will be held on Tuesday, March 15, 1994, at 2:30 p.m. An open meeting will be held on Wednesday, March 16, 1994, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 15, 1994, at 2:30 p.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Opinions.

The subject matter of the open meeting scheduled for Wednesday, March 16, 1994, at 10 a.m., will be:

Consideration of whether to propose for public comment two new rules and rule amendments under the Investment Advisers Act of 1940. The first rule would expressly prohibit investment advisers from making unsuitable recommendations to clients. The second rule would prohibit registered investment advisers from exercising investment discretion with respect to client accounts unless they have a reasonable belief that the custodians of those accounts send account statements to the clients no less frequently than quarterly. Related amendments to recordkeeping rule under the Advisers Act also would be proposed. For further information, please contact Robert E. Plaze or W. Thomas Conner at (202) 272–2107.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Carrie Dwyer (202) 272–2000.

Dated: March 8, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–5806 Filed 3–8–94; 3:56 pm]

BILLING CODE 8010–01–M

federal register

Thursday
March 10, 1994

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 1, et al.
Federal Acquisition Regulations; Final Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Federal Acquisition Circular 90–20]

Federal Acquisition Regulation; Introduction of Miscellaneous Amendments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary of interim and final rules and corrections.

SUMMARY: This document introduces the documents, set forth below, which comprise Federal Acquisition Circular (FAC) 90–20. The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are issuing FAC 90–20 to amend the Federal Acquisition Regulation (FAR) to implement changes in the following subject areas:

Item	Subject	FAR case	DAR case	Analyst
I	Section 6050M of the Tax Reform Act of 1986	91–52	91–007	Klein.
II	Made in America Labels and Unfair Trade Practices	93–301		DeStefano.
		93–306		DeStefano.
III	Preference for Commercial Products	91–48	89–315	O'Neill.
IV	Increase in Cost or Pricing Data Threshold	91–53	90–303	Olson.
V	Reimbursement, Interest Charges, and Penalties for Overpayment; Clarification	91–99/89–37	91–090	Olson.
VI	Clarify Increased Cost of Pricing Data Threshold	91–96	91–309	Olson.
VII	Nonmanufacturer Rule	91–50	90–335	O'Neill.
VIII	Small Business Competitiveness Demonstration Program	91–97	91–065	Scott.
IX	Removal of Steel Conduit from the FAR Buy American Act Exemption List	92–619		Klein.
X	Buy American Act—Construction Materials	91–75	91–305	O'Such.
XI	Examination of Records	92–47		O'Such.
XII	Independent Research and Development and Bid and Proposal Costs	93–302		Olson.
XIII	Prompt Payment Overseas	92–46		Olson.
XIV	Federal Courts Administration Act	92–301/91–62		O'Neill.
			90–323	
XV	Defense Traffic Management Regulation	92–53		Klein.
XVI	Records of Plant Equipment	91–73	91–019	Klein.
XVII	Reports of Government Property	91–58	90–454	Klein.
XVIII	Returnable Cylinders	91–10	90–457	Klein.
XIX	Small Business Innovation Research Rights in Data	93–305		O'Neill.
XX	Corrections and Technical Amendments			
Notices	Annual notice of Rates of Inflation			Olson
	Availability of the 1993 Consolidated Reprint of the FAR.			

DATES: For effective dates, see separate documents which appear elsewhere in this separate part. Please cite FAC 90–20 and the appropriate FAR case number(s) in all correspondence related to this and the following documents.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501–4755. For specific information contact the analyst whose name appears in relation to each FAR case or subject area (see table under **SUMMARY**). Please cite FAC 90–20 and applicable FAR case number(s).

SUPPLEMENTARY INFORMATION: Federal Acquisition Circular 90–20 amends the Federal Acquisition Regulation (FAR) as specified below:

Item I—Section 6050M of the Tax Reform Act of 1986 (FAR Case 91–52)

The interim rule published at 57 FR 44259 on September 24, 1992 (FAC 90–13, Item I), is converted to a final rule with one change. FAR Subpart 4.9, Information Reporting to the Internal Revenue Service (IRS), and the clause at 52.204–3, Taxpayer Identification, have been revised to ensure the collection and reporting of the Taxpayer Identification Number (TIN) of certain contract modifications. The approved change is to the last sentence of 52.204–3(b). A 31 percent figure has replaced the previous 20 percent figure as a result of an amendment to 26 U.S.C. 3406(a)(1).

Item II—Made in America Labels (FAR Case 93–301) and Unfair Trade Practices (FAR Case 93–306)

These interim rules add language to FAR 9.403, 9.406, and 9.407 concerning suspension or debarment of contractors who engage in unfair trade practices and/or intentionally affixed a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States.

Item III—Preference for Commercial Products (FAR Case 91–48)

The interim rule published as Item V of FAC 90–9 is converted to a final rule. The interim rule amended section 10.001 and revised sections 10.002(d) and 10.006(a) to provide an order of preference for the various types of product descriptions used in contracting. The final rule differs from the interim rule in that (1) the Department of Defense (DOD) requirement for mandatory use of product descriptions listed in the DOD Index of Specifications and Standards, which was inadvertently omitted from the interim rule, is reinstated at 10.006(a); (2) a new exception to the requirement for mandatory use of indexed product descriptions is added at 10.006(a)(6); and (3) editorial changes are made for clarification.

Item IV—Increase in Cost or Pricing Data Threshold (FAR Case 91–53)

The interim rule published at 56 FR 67413, December 30, 1991 (FAC–90–10, Item I), is confirmed as final without change. This rule amended the FAR to reflect an increase in the statutory threshold for submission of cost or pricing data from $100,000 to $500,000 for DOD, NASA, and the Coast Guard.

Item V—Reimbursement, Interest Charges, and Penalties for Overpayment; Clarification (FAR Case 91–99/89–37)

This item clarifies Item 11 of FAC–90–3 (55 FR 52782, December 21, 1990) regarding the application, to contract modifications, of the statutory and regulatory guidance on reimbursement, interest charges, and penalties for overpayment (FAR case 89–37). The word "contracts" in Item 11 includes control modifications.

For DOD, NASA, and the Coast Guard, the statutory and regulatory guidance applies to: (1) Contracts awarded on or after November 8, 1985; and (2) modifications issued on or after November 8, 1985, regardless of the date of contract award. For all other agencies, the regulatory guidance applies to contracts awarded and modifications issued after January 22, 1991.

If a contract is modified and that modification requires the submission of certified cost or pricing data, the contract must be updated to incorporate the January 1991 version of the clause at FAR 52.214–37, 52.215–22, or 52.215–23 for that modification. This updating is to ensure that the contract includes the requirement for interest on defective pricing reductions for modifications.

Item VI—Clarify Increased Cost or Pricing Data Threshold (FAR Case 91–96)

The interim rule published as Item X in FAC 90–16 is converted to a final rule without change. The interim rule revised FAR 15.804–2 to clarify application of the $500,000 threshold for submission of certified cost or pricing data for contracts awarded by the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard. This rule implements Section 804 of the FY 92 Defense Authorization Act, which amended 10 U.S.C. 2306a(a)(1) to specify that the $500,000 threshold for DOD, Coast Guard, and NASA, also applies to subcontracts entered into after December 5, 1991, under prime contracts entered into on or before December 5, 1990, if the prime contract is modified to incorporate the $500,000 threshold. It also specifies that the $500,000 threshold applies to changes or modifications made after December 5, 1991, when the prime contract is modified to incorporate the $500,000 threshold.

Item VII—Nonmanufacturer Rule (FAR Case 91–50)

This converts the interim rule on the Nonmanufacturer Rule, published in the **Federal Register** at 57 FR 60571 on December 21, 1992, as Item XI of FAC 90–16, to a final rule with minor revisions. The interim rule implemented section 210 of Public Law 101–574. It revised FAR 19.001 and 19.102 to add a definition for the term "nonmanufacturer rule," to address Small Business Administration waiver of the nonmanufacturer rule for specific items, and to remove the partial listing of classes for which a waiver has been granted.

Item VIII—Small Business Competitiveness Demonstration Program (FAR Case 91–97)

FAR 19.1001(b) and 19.1006(b)(1) are amended to extend the Small Business Competitiveness Demonstration Program through September 30, 1996. FAR 19.1006(b)(1) is also amended to clarify procedures when an emerging small business (ESB) reserve amount is greater than $25,000. Section 19.1006(c)(1) is amended to delete the dollar threshold for the ESB reserve amount and substitute "established by the Office of Federal Procurement Policy." Subparagraph (c)(1) (i) and (ii) have been added to clarify how to proceed when there is not a reasonable expectation of offers from two or more responsible ESB's or when it is necessary to cancel an ESB set-aside.

Item IX—Removal of Steel Conduit From the FAR Buy American Act Exemption List (FAR Case 92–619)

Paragraph (d)(1) of 25.108, Excepted Articles, Materials, and Supplies, is being amended to remove steel conduit (5" and 6") from the FAR Buy American Act exemption list. Market research has uncovered two domestic sources for these products.

Item X—Buy American Act—Construction Materials (FAR Case 91–75)

The interim rule published at 57 FR 20372, May 12, 1992, (FAC 90–11, Item II) is confirmed as final without change. The interim rule amended FAR 25.201 and 52.225–5 to modify the definition of "construction material" to require evaluation of an emergency life safety system as a single construction material under the Buy American Act, regardless of when and how the individual parts or components are delivered to the construction site. This rule implements section 631 of Public Law 102–141, Treasury, Postal Service and General Government Appropriations Act.

Item XI—Examination of Records (FAR Case 92–47) (Statutory)

FAR 25.901(c) is revised to make the requirement for notification of Congress, when the clause at 52.215–1, Examination of Records by Comptroller General, is omitted from a contract with a foreign contractor, inapplicable to the Department of Defense.

Item XII—Independent Research and Development and Bid and Proposal Costs (FAR Case 93–302)

FAR 31.205–18(c)(2)(iii)(A) is amended to insert a date certain with regard to waiving the limitation on the maximum allowable amount of independent research and development and bid and proposal costs for a major contractor in order to ensure that the amount determined to be allowable for such contractor is at least equal to what would have been allowed prior to the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102–190).

Item XIII—Prompt Payment Overseas (FAR Case 92–46)

This interim rule revises FAR 32.901 and amends the clauses at FAR 52.232–25, 52.232–26, and 52.232–27 to remove the statements that no interest penalty will be paid on contracts awarded to foreign vendors outside the United States for work performed outside the United States and to remove the definition of "foreign vendor" from the clauses.

Item XIV—Federal Courts Administration Act (FAR Cases 92–301 and 91–62)

This interim rule amends FAR 33.201, 33.202, 33.204, 33.207, 33.208, 33.210, 33.211, 33.214, 42.302, and the clause at 52.233–1 concerning the certification of claims under the Contract Disputes Act (CDA). The rule implements section 907(a) of the Federal Courts Administration Act of 1992 (Pub. L. 102–572) which requires that the person certifying a CDA claim be duly authorized to bind the contractor; specifies the conditions under which a contracting officer does not have to issue a final decision; provides that certifications are not jurisdictional; further revises the existing alternative dispute resolution (ADR) coverage; and

provides for payment of interest from the date of initial receipt of the claim or enactment of Public Law 102–572, whichever is later. (Pub. L. 102–572 was enacted on October 29, 1992.)

Item XV—Defense Traffic Management Regulation (FAR Case 92–53)

FAR Subpart 42.14, Traffic and Transportation Management, is amended to update the title of the Defense Traffic Management Regulation and to add references to Military Departments and Defense Logistics Agency regulations concerning traffic and transportation management. Cross references at FAR 47.103(b)(2), 47.200(e), and 47.305–6(f)(1)(ii) were also revised to update the title of the Defense Traffic Management Regulation. Cross references at 47.103(b)(2), 47.200(e), and 47.305–6(f)(1)(ii) were also revised to update the title of the Defense Traffic Management Regulation.

Item XVI—Records of Plant Equipment (FAR Case 91–73)

The FAR is being revised at 45.501, 45.505–1, 45.505–4, and 45.505–5 to add language on the use of summary records and expand the use of summary records to special tooling and special test equipment costing less than $5,000.

Item XVII—Reports of Government Property (FAR Case 91–58)

FAR 45.505–14, Reports of Government Property, is revised to require contractors to report annually all classifications of Government property in their possession. The FAR revision expands the list of property classifications to be reported to include special tooling, special test equipment, material and agency peculiar property. It deletes the dollar amounts for plant equipment.

Item XVIII—Returnable Cylinders (FAR Case 91–10)

A clause, Returnable Cylinders, is added to the FAR at 52.247–66, and prescriptive language is added at 47.305–17. The clause describes the Government's responsibilities relating to the return and accountability of contractor-furnished returnable cylinders.

Item XIX—Small Business Innovation Research Rights in Data (FAR Case 93–305)

Paragraph (d) of the clause at FAR 52.227–20, Rights in Data—SBIR Program, is revised to increase the small business concern's data rights retention period from 2 to 4 years. This revision implements Section 15(f) of the revised SBIR Program Policy Directive, published by the SBA in the **Federal Register** on January 26, 1993 (58 FR 6144).

Item XX—Corrections and Technical Amendments

Corrections and technical amendments have been made to FAR parts 1, 3, 5, 15, 16, 19, 31, 42, 48, 52, and 53 for clarification, to correct references and terms. For the convenience of the user, Standard Forms 254, 255, and Optional Form 333 are reprinted. Among the changes are the following:

Standard Forms 254 and 255

Standard Form (SF) 254, Architect-Engineer and Related Services Questionnaire, and SF 255, Architect-Engineer and Related Services Questionnaire for Specific Project, which were revised and illustrated as Item XXIII in FAC 90–16 (57 FR 60570, December 21, 1992), are being republished in this FAC 90–20 to reflect the removal of the Office of Management and Budget's (OMB) date of expiration for clearance approvals and to reflect other minor typographic changes.

Optional Form 333

Optional Form 333, Procurement Integrity Certification for Procurement Officials, is authorized for local reproduction indefinitely and the revised version is published here for the convenience of the user.

Annual Notice of Rates of Inflation

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to publish, as an information item, the rates of inflation which are used in conjunction with other factors to determine the allowability of independent research and development and bid and proposal (IR&D/B&P) costs for major contractors under FAR 31.205–18(c)(2)(i)(C)(*2*). These rates were issued by the Acting Comptroller of the Department of Defense in March 1993. FAR 31.205–18(c)(2)(i)(C)(*2*) states the rates of inflation will be published in the **Federal Register** on an annual basis.

Federal Acquisition Circular 90–13, FAR case 91–37, Item VII, published in the **Federal Register** at 57 FR 44264, September 24, 1992, provided rates of inflation which were to be used to determine the allowability of IR&D/B&P costs for major contractors during the 3-year transition period FY 1993 through 1995. FAR 31.205–18(c)(2)(i)(C)(*2*) states the rates of inflation will be published in the **Federal Register** on an annual basis. The following rates of inflation are effective immediately, supersede those published in the **Federal Register** at 57 FR 44264, September 24, 1992, and shall remain in effect until superseded by the next publication:

Fiscal year	Annual percentage rate
1993	2.4
1994	2.3
1995	2.3
1996	2.2

Availability of the 1993 Consolidated Reprint of the FAR

The 1993 Consolidated Reprint of the FAR will be available after March 30, 1994. Circulars amending the 1990 edition of the FAR have been consolidated up through December 31, 1993; therefore, reprint users should immediately begin filing with FAC 90–19, which was issued January 5, 1994, and will be distributed to subscribers in March.

For additional information, contact the FAR Secretariat at 202 501–4755. For subscription and distribution information, contact the Superintendent of Documents at 202 512–2305.

Dated: February 22, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 90–20 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

All Federal Acquisition Regulation (FAR) and other directive material contained in FAC 90–20 is effective May 9, 1994, except for Items I, II, III, IV, VI, VII, X, XIII, XIV, XIX, and XX which are effective May 9, 1994.

Dated: November 30, 1993.

Eleanor R. Spector,

Director, Defense Procurement.

Dated: November 9, 1993.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy, General Services Administration.

Dated: October 29, 1993.

Thomas S. Luedtke,

Acting Deputy Associate Administrator for Procurement, NASA.

[FR Doc. 94–4381 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

48 CFR Parts 4 and 52

[FAC 90–20; FAR Case 91–52; Item I]

RIN 9000–AF09

Federal Acquisition Regulation; Section 6050M of the Tax Reform Act of 1986

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: This adopts as final, with one change, the interim rule published at 57 FR 44259, September 24, 1992, as Item I of FAC 90–13. That rule amended the coverage "Information Reporting to the Internal Revenue Service (IRS)," of the Federal Acquisition Regulation (FAR), to ensure the collection and reporting of the Taxpayer Identification Number (TIN) of certain contract modifications occurring on or after April 1, 1990, when the initial contract was entered into before January 1, 1989. In addition, the coverage has been rearranged for clarification and the provision entitled "Taxpayer Identification" has been revised to update a reference. When the IRS issued its final regulations implementing section 6050M of the Tax Reform Act of 1986 (Public Law 99–514), the reporting requirements included the requirement to report certain modifications to contracts that were awarded before January 1, 1989. The Office of Federal Procurement Policy (OFPP) requested that the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council consider revising the FAR accordingly. The rule is being adopted as a final rule with one change. The approved change is to the provision entitled "Taxpayer Identification" and consists of replacing the previous 20 percent figure with a 31 percent figure as a result of an amendment to 26 U.S.C. 3406(a)(1).

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–52.

SUPPLEMENTARY INFORMATION:

A. Background

Section 6050M of title 26, United States Code, requires heads of Federal executive agencies to report certain contract information to the IRS. The information returns filed under section 6050M are used as a source of information to collect delinquent Federal tax liabilities of persons who enter into contracts with Federal executive agencies.

On December 6, 1989, the IRS published regulations that implemented section 6050M of the Tax Reform Act of 1986 (Pub. L. 99–514). The regulations apply to Federal executive agencies' contracts entered into on or after January 1, 1989, except that, with respect to a basic or initial contract entered into before January 1, 1989, the regulations do not apply to an increase contract action treated as a new contract if the increase occurred before April 1, 1990, or if the increase is not in excess of $50,000. The information required to be reported for contract actions over $25,000 includes name, address, and TIN of the Contractor, name and TIN of the common parent (if any); date of the contract action; amount obligated on the contract; and duration of the contract.

The OFPP requested that the FAR be revised to ensure that agency reporting requirements include the requirement to report certain modifications to contracts that were awarded before January 1, 1989. Interim rule coverage was published on September 24, 1992, with a request for comment. One response (a "no comment") was received. However, one change was made to paragraph (b) of 52.204–3, Taxpayer Identification, as a result of an amendment to 26 U.S.C. 3406(a)(1).

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because all taxpayers are required to have a TIN, and this rule merely requests that contractors provide that number for certain contract modifications.

This rule was published as an interim rule with a request for comments (see 57 FR 44259, September 24, 1992), and no comments were received regarding the Regulatory Flexibility Act statement.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) applies because the final rule increases the existing burden. Accordingly, a request for approval of a revised information collection requirement concerning OMB Control Number 9000–0097, Information Reporting to the Internal Revenue Service (IRS) (Taxpayer Identification Number) was submitted to the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*, and was published in the **Federal Register** on October 16, 1992. OMB approved the collection through December 31, 1995.

List of Subjects in 48 CFR Parts 4 and 52

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Interim Rule Adopted as Final With One Change

Accordingly, the interim rule amending 48 CFR parts 4 and 52, which was published at 57 FR 44259 on September 24, 1992, is adopted as a final rule with the following change:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR parts 4 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

52.204–3 [Amended]

Section 52.204–3 is amended in the last sentence of paragraph (b) by removing the figure "20" and inserting "31" in its place.

[FR Doc. 94–4382 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 9

[FAC 90–20; FAR Cases 93–301 and 93–306; Item II]

RIN 9000–AF40

Federal Acquisition Regulation; Made in America Labels/Unfair Trade Practices

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rules with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to interim rules amending the Federal Acquisition Regulation (FAR) to implement sections 201 and 202 of the Defense Production Act. Section 201 directs that the FAR be amended to address the responsibility of contractors

who engage in unfair trade practices as defined in section 201. Section 202 directs that the FAR be amended to address the responsibility of persons that intentionally affix a label bearing a fraudulent "Made in America" inscription to a product sold in or shipped to the United States.

DATES: *Effective Date:* March 10, 1994.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 9, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4037, Attn.: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–20, FAR cases 93–301 and 93–306, as appropriate, in all correspondence related to these cases.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano at (202) 501–1758 in reference to these FAR cases. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR cases 93–301 and 93–306, as appropriate.

SUPPLEMENTARY INFORMATION:

A. Background

Section 201 of the Defense Production Act (Pub. L. 102–558), provides that any contractor who has engaged in unfair trade practices may be found to lack such business integrity to affect the contractor's responsibility to perform a Government contract or subcontract. Section 201 defines "unfair trade practices" as the commission by a contractor of any of the following acts: (1) A violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as determined by the International Trade Commission, (2) a violation, as determined by the Secretary of Commerce, of any agreement of the group known as the "Coordination Committee" for purposes of the Export Administration Act of 1979 (50 U.S.C. App. 2401, *et seq.*) or any similar bilateral or multilateral export control agreement, and (3) a knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the Department or the head of the agency to which such certificate was furnished. Section 201 mandates that this statement of public contract law policy be implemented by amending Subpart 9.4 of title 48, Code of Federal Regulations, not later than 270 days after the date of enactment of the Defense Production Act (October 28, 1992).

Section 202 of the Defense Production Act (Pub. L. 102–558) provides that any person determined to have intentionally affixed a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States, when such product was not made in the United States, may be found to lack business integrity or business honesty to such a degree as to affect their responsibility to perform a Federal contract or subcontract. Section 202 mandates that this statement of policy be implemented by amending FAR Subpart 9.4 (Debarment, Suspension, and Ineligibility) not later than 270 days (July 28, 1993) after the date of enactment of the Defense Production Act (October 28, 1992).

B. Regulatory Flexibility Act

These interim rules are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the changes do not impose any new requirements on contractors and the amendments to FAR Subpart 9.4 are mandatory. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR cases 93–301, Made in America Labels, and/or 93–306, Unfair Trade Practices, as appropriate), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate these interim rules without prior opportunity for public comment. This action is necessary because the required date for issuance of regulations under Public Law 102–558 was July 28, 1993.

List of Subjects in 48 CFR Part 9

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 9 is amended as set forth below:

PART 9—CONTRACTOR QUALIFICATIONS

1. The authority citation for 48 CFR part 9 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 9.403 is amended by adding, in alphabetical order, the definition "Unfair trade practices" to read as follows:

9.403 Definitions.

* * * * *

Unfair trade practices, as used in this subpart, means the commission of any of the following acts by a contractor:

(1) A violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) as determined by the International Trade Commission.

(2) A violation, as determined by the Secretary of Commerce, of any agreement of the group known as the "Coordination Committee" for purposes of the Export Administration Act of 1979 (50 U.S.C. App. 2401, *et seq.*) or any similar bilateral or multilateral export control agreement.

(3) A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the Department or the head of the agency to which such certificate was furnished.

2. Section 9.406–2 is amended at the end of paragraph (a)(3) by removing the word "or"; by redesignating paragraph (a)(4) as (a)(5) and adding new paragraphs (a)(4), (b)(3), and (b)(4) to read as follows:

9.406–2 Causes for debarment.

* * * * *

(a) * * *

(4) Intentionally affixing a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States, when the product was not made in the United States (see section 202 of the Defense Production Act (Pub. L. 102–558)); or

(b) * * *

(3) Intentionally affixing a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States, when

the product was not made in the United States (see section 202 of the Defense Production Act (Pub. L. 102–558)).

(4) Commission of an unfair trade practice as defined in 9.403 (see section 201 of the Defense Production Act (Pub. L. 102–558)).

* * * * *

3. Section 9.407–2 is amended by redesignating paragraph (a)(5) as (a)(7) and adding new paragraphs (a)(5) and (a)(6) to read as follows:

9.407–2 Causes for suspension.

(a) * * *

(5) Intentionally affixing a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States, when the product was not made in the United States (see section 202 of the Defense Production Act (Pub. L. 102–558));

(6) Commission of an unfair trade practice as defined in 9.403 (see section 201 of the Defense Production Act (Pub. L. 102–558)); or

* * * * *

[FR Doc. 94–4383 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

48 CFR Part 10

[FAC 90–20; FAR Case 91–48; Item III]

RIN 9000–AE95

Federal Acquisition Regulation; Preference for Commercial Products

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to clearly reflect the preference for use of voluntary standards, commercial item descriptions, and functional or performance specifications over design-type specifications. This rule amends and finalizes the interim rule published in **Federal Register** on December 27, 1991 (56 FR 67130).

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–48.

SUPPLEMENTARY INFORMATION:

A. Background

Section 2325 of title 10, United States Code, requires, to the maximum extent practicable, that DOD requirements shall be stated in terms of (1) functions to be performed, (2) performance required, or (3) essential physical characteristics, and that such requirements shall be fulfilled through the acquisition of nondevelopmental items. Section 824(c) of the Fiscal Year 1990 Defense Authorization Act (Pub. L. 101–189) requires the Secretary of Defense to consider whether revisions to the regulations governing specifications, standards, and other purchase descriptions are necessary to implement the requirements of section 2325 of title 10, United States Code. An interim rule was published in the **Federal Register** on December 27, 1991 (56 FR 67130) to implement these statutory requirements. This final rule differs from the interim rule in that (1) the DOD requirement for mandatory use of product descriptions listed in the DOD Index of Specifications and Standards, which was inadvertently omitted from the interim rule, is reinstated at section 10.006(a); (2) a new exception to the requirement for mandatory use of indexed product descriptions is added at section 10.006(a)(6); and (3) editorial changes are made for clarification.

B. Regulatory Flexibility Act

An Initial Regulatory Flexibility Analysis was prepared supporting the interim rule, because it was anticipated that the proposed changes might have a significant economic impact on a substantial number of small entities. However, none of the public comments received indicated any concerns in this area. The additional changes included in the final rule do not constitute significant FAR revisions within the meaning of FAR 1.501 and Public Law 98–577. A Final Regulatory Flexibility Analysis has been prepared and is available from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR Case 91–48), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Public Comments

On December 27, 1991, an interim rule was published in the **Federal Register** (56 FR 67130). Seven comments were received from five organizations. All comments were considered, and changes were made in the development of the final rule.

List of Subjects in 48 CFR Part 10

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR part 10, which was published at 56 FR 67130 on December 27, 1991, is adopted as a final rule with the following changes:

PART 10—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

1. The authority citation for 48 CFR part 10 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 10.001 is amended by revising the definitions "Commercial item description" and "Product description" to read as follows:

10.001 Definitions.

* * * * *

Commercial item description (CID) means an indexed, simplified product description managed by the General Services Administration (GSA) that describes, by functional, performance, or essential physical requirements, the available, acceptable commercial products that will satisfy the Government's needs.

* * * * *

Product description is the generic term for documents used for acquisition and management purposes, such as specifications, standards, voluntary standards, CID's, or purchase descriptions.

* * * * *

3 Section 10.002 is amended by revising paragraph (d) to read as follows:

10.002 Policy.

* * * * *

(d) To the maximum practicable extent, unless inconsistent with applicable law or incapable of meeting the Government's needs, agencies shall

use the following types of product descriptions, which are listed in descending order of preference:

(1) Voluntary standards;

(2) CID's in the acquisition of commercial or commercial-type products;

(3) Government product descriptions stated predominantly in terms of functions to be performed or performance required;

(4) Government product descriptions stated predominantly in terms of material, finish, schematics, tolerances, operating characteristics, component parts, or other design requirements.

* * * * *

4. Section 10.006 is amended by revising the section heading and paragraph (a) to read as follows:

10.006 Mandatory product descriptions.

(a) Unless otherwise authorized by law or approved under 10.007(a), product descriptions listed in the Index of Federal Specifications, Standards and Commercial Item Descriptions are mandatory for use by all agencies, and product descriptions listed in the DODISS are mandatory for use by the DOD, if acquiring supplies or services covered by such product descriptions, except if the acquisition is—

(1) Required under an unusual and compelling urgency, and using the indexed product description would delay obtaining the requirement;

(2) Conducted in accordance with the procedures in part 13;

(3) For products acquired and used overseas;

(4) For items, excluding military clothing, acquired for authorized resale;

(5) For construction or new installations of equipment, where nationally recognized industry or technical source specifications and standards are available; or

(6) For a product or service for which an adequate and appropriate voluntary standard is known to exist but has not yet been adopted and listed in the indexes referenced in this section.

* * * * *

[FR Doc. 94–4384 Filed 3–9–94; 8:45 am]
BILLING CODE 6820–34–M

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48 CFR Parts 14, 15, and 52

[FAC 90–20; FAR Case 91–53; Item IV]

RIN 9000–AE79

Federal Acquisition Regulation; Increase in Cost or Pricing Data Threshold

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published in the **Federal Register** at 56 FR 67412, December 30, 1991 (FAC 90–10, Item I), to a final rule with no change. This rule amended the Federal Acquisition Regulation (FAR) by increasing the threshold for submission of cost or pricing data from $100,000 to $500,000 for DOD, NASA, and the Coast Guard.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–53.

SUPPLEMENTARY INFORMATION:

A. Background

These revisions are based on section 803 of Public Law 101–150, which amended subsection 2306a(a)(1) of title 10, United States Code, by increasing the threshold for submission of cost or pricing data from $100,000 to $500,000 for DOD, NASA, and the Coast Guard.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive, fixed-price basis and the requirements for certified cost or pricing data do not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act 44 U.S.C. 3501, *et seq.*, applies because the final rule contains information collection requirements. Approval for the revised burden was granted under OMB Control Number 9000–0013.

List of Subjects in 48 CFR Parts 14, 15, and 52

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 14, 15, and 52, which was published at 56 FR 67412 on December 30, 1991 (FAC 90–10, Item I), is adopted as a final rule without change.

The authority citation for 48 CFR parts 14, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 94–4385 Filed 3–9–94; 8:45 am]
BILLING CODE 6820–34–M

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48 CFR Part 15

[FAC 90–20; FAR Cases 91–99 and 89–37; Item V]

Federal Acquisition Regulation; Reimbursement, Interest Charges, and Penalties for Overpayment; Clarification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Clarification of final rule.

SUMMARY: This item clarifies FAR case 89–37, Item 11 of FAC 90–3 published at 55 FR 52782, December 21, 1990, regarding the application to contract modifications of the statutory and regulatory guidance on reimbursement, interest charges, and penalties for overpayment. The word "contracts" in Item 11 includes contract modifications.

For DOD, NASA, and Coast Guard, the statutory and regulatory guidance applies to: (1) Contracts awarded on or after November 8, 1985; and (2) Modifications issued on or after November 8, 1985, regardless of the date of contract award. For all other agencies, the regulatory guidance applies to contracts awarded and modifications issued after January 22, 1991.

If a contract is modified and that modification requires the submission of certified cost or pricing data, the contract must be updated to incorporate the January 1991 version of the clause at FAR 52.214–27, 52.215–22, or 52.215–23 for that modification. This updating is to ensure that the contract includes the requirement for interest on defective pricing reductions for modifications.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501–3221 in reference to this FAR case. For

general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–20, FAR cases 91–99 and 89–37.

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

[FR Doc. 94–4386 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 15

[FAC 90–20; FAR Case 91–96; Item VI]

RIN 9000–AF24

Federal Acquisition Regulation; Clarify Increased Cost or Pricing Data Threshold

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule revising the Federal Acquisition Regulation (FAR) to clarify application of the $500,000 threshold for submission of certified cost or pricing data for contracts awarded by the Department of Defense, the National Aeronautics and Space Administration, and the Coast Guard.

DATES: Effective Date: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–96.

SUPPLEMENTARY INFORMATION:

A. Background

Section 804 of the FY 92 Defense Authorization Act, amended 10 U.S.C. 2306a(a)(1) to specify that the $500,000 threshold for DOD, Coast Guard, and NASA, also applies to subcontracts entered into after December 5, 1991, under prime contracts entered into on or before December 5, 1990, if the prime contract is modified to incorporate the $500,000 threshold. It also specifies that the $500,000 threshold applies to changes or modifications made after December 5, 1991, when the prime contract is modified to incorporate the $500,000 threshold.

An interim rule was published in the **Federal Register** at 57 FR 60570, December 21, 1992. This final rule makes no changes to the interim rule as a result of analysis of public comments.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities are awarded on a competitive basis and the requirements for certified cost or pricing data do not apply. No comments were received on the impact of this rule on small entities during the public comment period.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) applies. This rule clarifies a rule previously promulgated under FAR Case 91–53, Increase in Cost or Pricing Data Threshold. A request for approval of a revision to reduce the burden of a currently approved information collection requirement concerning Increase in Cost or Pricing Data Threshold was submitted to the Office of Management and Budget (OMB) and approved under OMB control number 9000–0013.

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR part 15 which was published at 57 FR 60570 on December 21, 1992, is hereby adopted as a final rule without change.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 94–4387 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 19

[FAC 90–20; FAR Case 91–50; Item VII]

RIN 9000–AF08

Federal Acquisition Regulation; Nonmanufacturer Rule

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule published in the **Federal Register** at 57 FR 60571, December 21, 1992, as Item XI of Federal Acquisition Circular (FAC) 90–16, to a final rule with minor changes. The reference to the Small Business Act in the interim rule has been corrected, and a notification of the Small Business Administration's (SBA's) Procurement Automated Service System was added to the final rule. The address for the SBA was also updated.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–50.

SUPPLEMENTARY INFORMATION:

A. Background

Section 210 of Public Law 101–574 authorizes the SBA to waive the nonmanufacturer rule as it applies to a specific product, as well as to classes of products. Heretofore, SBA waivers were not issued on a contract-by-contract basis but, rather, waivers were issued for classes of products.

An interim rule was published in the **Federal Register** at 57 FR 60571, December 21, 1992, as Item XI of FAC 90–16. This final rule makes minor revisions to the interim rule as a result of analysis of public comments.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this rule. The revisions may have a significant economic impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it may mean more small business set-asides will be possible. An Initial Regulatory Flexibility Analysis (IRFA) was, therefore, prepared and submitted to the Chief Counsel for Advocacy of the SBA. A final analysis has also been performed. A copy of the Final Regulatory Flexibility Analysis may be obtained from the FAR Secretariat.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of the Office

of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Interim Rule Adopted as Final With Minor Revisions

Accordingly, the interim rule amending 48 CFR part 19 which was published at 57 FR 60571 on December 21, 1992, is hereby adopted as a final rule with minor revisions.

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

1. The authority citation for 48 CFR part 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 19.102 is amended in the first sentence of paragraph (f)(5)(i) by removing "637" and inserting "8", and adding a sentence at the end of the paragraph; by redesignating paragraphs (f)(5)(iii) and (f)(5)(iv) as (f)(6) and (f)(7), respectively; and revising the new paragraph (f)(7) to read as follows:

19.102 Size Standards.

* * * * *

(f) * * *

(5) * * *

(i) * * * A listing is also available in the SBA's Procurement Automated Source System (PASS).

* * * * *

(7) Requests for waivers shall be sent to the Associate Administrator for Procurement Assistance, United States Small Business Administration, Mail Code 6250, 409 Third Street, SW., Washington, DC 20416.

* * * * *

[FR Doc. 94–4388 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 19

[FAC 90–20; FAR Case 91–97; Item VIII]

RIN 9000–AF30

Federal Acquisition Regulation; Small Business Competitiveness Demonstration Program

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) to clarify how to proceed when there is not a reasonable expectation of offers from two or more responsible emerging small businesses (ESB), or when it is necessary to cancel an ESB set-aside and the emerging small business reserve amount established by the Office of Federal Procurement Policy (OFPP) is greater than $25,000. The FAR has also been amended to extend the Small Business Competitiveness Demonstration Program through September 30, 1996.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott at (202) 501–0168 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–97.

SUPPLEMENTARY INFORMATION:

A. Background

The Small Business Competitiveness Demonstration Program, FAR 19.10, is based on the OFPP Policy Directive and Test Plan, dated August 31, 1989. As part of this program, acquisitions in designated industry groups, with an estimated value equal to or less than a specified reserve amount, are set aside for emerging small businesses. OFPP may set a higher reserve amount in the event that emerging small business concerns are not receiving 15 percent of the total dollar value of contract awards in one or more of the designated industry groups. OFPP published a notice in the **Federal Register** at 56 FR 46656, September 13, 1991, which increased the reserve amount for the architectural and engineering services industry from $25,000 to $50,000. The increase of an emerging small business reserve amount above $25,000 makes this final rule necessary to clarify the internal Government procedures for proceeding with an acquisition when there is not a reasonable expectation of offers from two or more responsible ESB's or when it is necessary to cancel an ESB set-aside. Section 201 of the Small Business Credit and Business Opportunity Enhancement Act of 1992 extended the Small Business Competitiveness Demonstration Program through September 20, 1996.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule clarifies internal Government procedures for proceeding with an acquisition when (1) the emerging small business (ESB) reserve amount is increased by OFPP above $25,000, (2) there is not a reasonable expectation of offers from two or more responsible ESB's, or (3) it is necessary to cancel an ESB set-aside.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 19

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 19 is amended as set forth below:

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

1. The authority citation for 48 FR part 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 19.1001 is amended in paragraph (b) by revising the second sentence to read as follows:

19.1001 General.

* * * * *

(b) * * * The program will be conducted over the period from January 1, 1989, through September 30, 1996.

* * *

2. Section 19.1006 is amended in paragraph (b)(1) by removing the date "December 31, 1992", and inserting "September 30, 1996" in its place; removing the words "subparagraph (b)(2)" and inserting "subparagraphs (b)(2) and (c)(1)" in its place; and by revising paragraphs (c)(1) and (c)(2) to read as follows:

19.1006 Procedures.

* * * * *

(c) *Emerging small business set-aside.* (1) All acquisitions in the four designated industry groups with an estimated value equal to or less than the emerging small business reserve amount established by the Office of Federal

Procurement Policy shall be set aside for ESB's; *provided* that the contracting officer determines that there is a reasonable expectation of obtaining offers from two or more responsible ESB's that will be competitive in terms of market price, quality, and delivery. If no such reasonable expectation exists, the contracting officer shall—

(i) For acquisitions $25,000 or less, proceed in accordance with 13.105 or subpart 19.5; or

(ii) For acquisitions over $25,000, proceed in accordance with paragraph (b) of this section.

(2) If the contracting officer proceeds with the ESB set-aside and receives a quotation from only one ESB at a reasonable price, the contracting officer shall make the award. If there is no quote from an ESB, or the quote is not at a reasonable price, then the contracting officer shall cancel the ESB set-aside and proceed in accordance with (c)(1) (i) or (ii) of this section.

* * * * *

[FR Doc. 94–4389 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 25

[FAC 90–20; FAR Case 92–619; Item IX]

RIN 9000–AF38

Federal Acquisition Regulation; Removal of Steel Conduit From the FAR Buy American Act Exemption List

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) by removing steel conduit (5" and 6") from the FAR Buy American Act exemption list. Market research has uncovered two domestic sources for these products.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 92–619.

SUPPLEMENTARY INFORMATION:

A. Background

Item VII of FAC 90–9, published in the **Federal Register** at 56 FR 67132 December 27, 1991, amended FAR 25.108(d)(1) by adding steel conduit (5" and 6") to the FAR Buy American Act exemption list because of a lack of domestic sources for these products. Additional research has uncovered two domestic sources, so the products are being removed from the list.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–20, FAR case 92–619), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 25

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 25 is amended as set forth below:

PART 25—FOREIGN ACQUISITION

1. The authority citation for 48 CFR part 25 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

25.108 [Amended]

2. Section 25.108 is amended in paragraph (d)(1) by removing the item "Steel conduit (5" and 6")" from the list.

[FR Doc. 94–4390 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 25 and 52

[FAC 90–20; FAR Case 91–75; Item X]

RIN 9000–AF00

Federal Acquisition Regulation; Buy American Act—Construction Materials

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule adopted as final.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to convert the interim rule, published in the **Federal Register** at 57 FR 20372, May 12, 1992, as Item II in Federal Acquisition Circular (FAC) 90–11, to a final rule with no revisions. The interim rule amended the Federal Acquisition Regulation (FAR) by modifying the definition of "construction material" to require evaluation of an emergency life safety system as a single construction material under the Buy American Act, regardless of when and how the individual parts or components are delivered to the construction site.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501–1759 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–75.

SUPPLEMENTARY INFORMATION:

A. Background

Section 631 of Public Law 102–141, Treasury, Postal Service and General Government Appropriations Act, requires evaluation of an emergency life safety system as a single construction material under the Buy American Act, regardless of when and how the individual parts or components are delivered to the construction site. The amendments to FAR 25.201 and 52.225–5 implement section 631.

An interim rule was published in the **Federal Register** at 57 FR 20372, May 12, 1992 (FAC 90–11, Item II). This final rule makes no revision to the interim rule after analysis of public comments.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because they increase the potential use of foreign components in construction projects and, therefore, may have an adverse impact on small U.S. businesses who manufacture components of emergency life safety systems. Therefore, an Initial Regulatory Flexibility Analysis was prepared and forwarded to the Chief Counsel for Advocacy for the Small Business Administration. A final analysis has been performed. A copy of the final analysis may be obtained from

the FAR Secretariat (VRS) at General Services Administration, 18th & F Streets NW., room 4037, Washington, DC 20405.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 25 and 52, which was published at 57 FR 20372, May 12, 1992 (FAC 90–11, Item II), is adopted as a final rule without change.

The authority citation for 48 CFR parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

[FR Doc. 94–4391 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 25

[FAC 90–20; FAR Case 92–47; Item XI]

Federal Acquisition Regulation; Examination of Records

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to state that the requirement to notify Congress when the Examination of Records clause is omitted from a contract with a foreign contractor, does not apply to the Department of Defense.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such at (202) 501–1759 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 92–47.

SUPPLEMENTARY INFORMATION:

A. Background

Section 1301(9) of the Fiscal Year 1991 DOD Authorization Act amends section 2312 of title 10, United States Code, repealing the requirement for the Department of Defense to notify Congress when the authority to omit the Examination of Records clause is exercised.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–20, FAR case 92–47), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 25

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 25 is amended as set forth below:

PART 25—FOREIGN ACQUISITION

1. The authority citation for 4 CFR part 25 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 25.901 is amended by revising paragraph (c) to read as follows:

25.901 Omission of examination of records clause.

* * * * *

(c) *Conditions for omission.* (1) The contracting officer may omit the clause at 52.215–1, Examination of Records by Comptroller General, from contracts with foreign contractors—

(i) If the agency head determines, with the concurrence of the Comptroller General or a designee, the omission of the clause will serve the public interest; or

(ii) If the contractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its books, documents, papers, or records available for examination, and the agency head determines, after taking into account the price and availability of the property or services from domestic sources, that omission of the clause best serves the public interest.

(2) When a determination under subparagraph (c)(1)(ii) of this section is the basis for omission of the clause at 52.215–1, Examination of Records by Comptroller General, the agency head shall forward a written report to the Congress explaining the reasons for the determination; except that this requirement is not applicable to the Department of Defense

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[FR Doc. 94–4392 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 31

[FAC 90–20; FAR Case 93–302; Item XII]

RIN 9000–AF42

Federal Acquisition Regulation; Independent Research and Development and Bid and Proposal Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) by inserting a date certain with regard to waiving the limitation on the maximum allowable amount of independent research and development and bid and proposal costs for a major contractor in order to ensure that the amount determined to be allowable for such contractor is at least equal to what would have been allowed prior to the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Olson at (202) 501–3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR Case 93–302.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements section 1052 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484) which amended 10 U.S.C. 2372(e)(1) concerning waiver of the limitation on total maximum allowable amount of independent research and development and bid and proposal (IR&D/B&P) costs. Section 2372(e)(1) of title 10 was originally added by section 802 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190), which was enacted December 5, 1991. Section 1052 then amended 10 U.S.C. 2372(e)(1) by removing the phrase that begins with "on the day before" and ends at the semicolon, and inserted, in lieu thereof, the phrase "on December 4, 1991."

The rule inserts a date certain with regard to the FAR provision for waiving the limitation on the maximum allowable amount of IR&D/B&P costs for a major contractor in order to ensure that the amount determined to be allowable for such contractor is at least equal to what would have been allowed prior to the enactment of Public Law 102–190 on December 5, 1991. The phrase "prior to the enactment of Public Law 102–190" is removed from FAR 31.205–18(c)(2)(iii) (A) and replaced with the phrase "on December 4, 1991."

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for comments is not required. Therefore, the Regulatory Flexibility act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–20, FAR case 93–302), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 31 is amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for 48 CFR part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

31.205–18 [Amended]

2. Section 31.205–18(c)(2)(iii)(A) is amended by removing the words "prior to enactment of Public Law 102–190" and inserting in its place "on December 4, 1991".

[FR Doc. 94–4393 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 32 and 52

[FAC 90–20; FAR case 92–46; Item XIII]

RIN 9000–AF41

Federal Acquisition Regulation; Prompt Payment Overseas

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to reflect a decision by the Armed Services Board of Contract Appeals that the Prompt Payment Act applies to overseas contracts.

DATES: *Effective Date*: March 10, 1994. *Comment Date*:, Comments should be submitted to the FAR Secretariat at the address shown below on or before May 9, 1994, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., room 4037, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–20, FAR case 92–46 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy F. Olson at (202) 501-3221 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501-4755. Please cite FAC 90–20, FAR case 92–46.

SUPPLEMENTARY INFORMATION:

A. Background

On January 13, 1992, the Armed Services Board of Contract Appeals (ASBCA), in Held & Francke Baukittengesellschaft (ASBCA Nos. 42463 and 42464), held that FAR 32.901 improperly excluded applicability of the Prompt Payment Act (31 U.S.C. 3901, *et seq.*) to contracts awarded to foreign contractors for work performed outside the United States. As a result of the ASBCA decision, the Councils have agreed on an interim rule which, in effect, makes the Government liable for payment of interest and interest penalties under the Act for contracts with foreign contractors for work performed or supplies delivered overseas.

Section 32.901 and the clauses at 52.232–25, 52.232–26, and 52.232–27 are amended to remove the statements that no interest penalty will be paid on contracts awarded to foreign vendors outside the United States for work performed outside the United States and to remove the definition of "foreign vendor" from the clauses.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies, but the interim rule will not significantly impact a substantial number of small entities within the meaning of the Act. The rule only applies to contracts with foreign contractors for work performed overseas by extending the Government's liability to pay interest and penalties under the Prompt Payment Act to such entities. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610; however, such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–20, FAR case 91–46), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the amendments to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is

necessary because it is essential that uniform guidance on application of the board decision be issued in the FAR.

List of Subjects in 48 CFR Parts 32 and 52

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 32 and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 32 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 32—CONTRACT FINANCING

2. Section 32.901 is revised to read as follows:

32.901 Applicability.

This subpart applies to all Government contracts (including small purchases as defined in subpart 13.1), except contracts with payment terms and late payment penalties established by other governmental authority (*e.g.*, tariffs).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.232–25 [Amended]

3. Section 52.232–25 is amended in the clause heading by removing "(SEP 1992)" and inserting "(MAR 1994)" in its place; removing the last sentence of the introductory text of the clause and the last sentence of the introductory text of paragraph (a)(5) of the clause.

52.232–26 [Amended]

4. Section 52.232–26 is amended in the clause heading by removing "(APR 1989)" and inserting "(MAR 1994)" in its place; removing the last sentence of the introductory text of the clause and the last sentence of the introductory text in paragraph (a)(4) of the clause.

52.232–27 [Amended]

5. Section 52.232–27 is amended in the clause heading by removing "(APR 1989)" and inserting "(MAR 1994)" in its place; removing the last sentence of the introductory text of the clause and the last sentence of the introductory text in paragraph (a)(3) of the clause.

[FR Doc. 94–4394 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

48 CFR Parts 33, 42, and 52

[FAC 90–20; FAR Case 92–301/91–62; Item XIV]

RIN 9000–AF35/9000–AE96

Federal Acquisition Regulation; Federal Courts Administration Act

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule revising the claim certification procedures and the Alternative Means of Dispute Resolution (ADR) procedures in the FAR. The rule also implements subsection 907(a) of the Federal Courts Administration Act of 1992 and further revises existing ADR coverage. Accordingly, the interim rule published as FAR case 91–62, Item III, in the **Federal Register** at 56 FR 67412, December 30, 1991, concerning Alternative Dispute Resolution, is hereby closed and superseded by this rule.

DATES: *Effective date:* March 10, 1994, except (FAR) 48 CFR 33.201, 33.207(c), (e), and (f), 33.208, and 33.211(e) which are effective as of October 29, 1992. *Applicability dates:* The revisions to FAR 33.201 (definition of "defective certification"), 33.207(e) and (f), and 33.211(e) are applicable with respect to all claims filed before, on, or after October 29, 1992. However, these revisions do not apply to claims that were the subject of an appeal to an agency board of contract appeals or a suit filed in the United States Claims Court prior to October 29, 1992, unless the claim is dismissed without prejudice and is subsequently refiled. Section 33.207(c) is applicable to those certifications executed more than 60 days after publication of this rule in the **Federal Register.** For certifications executed prior to that date, the reference to 33.207(c) in the revised 33.210 definition of "defective certification" shall be deemed to be a reference to prior 33.207(a). *Comment date:* Comments should be submitted to the FAR Secretariat at the address shown below on or before May 9, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–20, FAR case 92–301 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 92–301.

SUPPLEMENTARY INFORMATION:

A. Background

Subsection 907(a) of the Federal Courts Administration Act of 1992 (Pub. L. 102–572) requires that the person certifying a claim under the Contract Disputes Act (CDA) (41 U.S.C. 601–613) be duly authorized to bind the contractor; specifies the conditions under which a contracting officer does not have to issue a final decision; provides that certifications are not jurisdictional; and provides for payment of interest from the date of initial receipt of the claim or enactment of Public Law 102–572, whichever is later. Public Law 102–572 was enacted on October 29, 1992. This rule revises FAR 33.201, 33.207, 33.208, 33.211, and the clause at 52.233–1, and further revises ADR coverage at 33.202, 33.204, 33.210, 33.214, and 42.302.

B. Regulatory Flexibility Act

The interim revisions may have a significant beneficial economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because they simplify existing policies and procedures for the certification of claims submitted by contractors and are intended to reduce the need for costly litigation which has arisen under the existing regulations. Moreover, the regulatory impact on small entities flows directly from subsection 907(a) of the Federal Courts Administration Act of 1992 (Pub. L. 102–572) which serves as the basis for this interim rule. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR Case 92–301), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors,

contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because subsection 907(a) of the Federal Courts Administration Act of 1992 (Pub. L. 102–572), which amended the certification requirements for contractor claims filed pursuant to the Contract Disputes Act (CDA), is intended to resolve many of the problems that have arisen under existing CDA procedures. Subsection 907(a) also contains specific effective dates for implementation. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 33, 42, and 52

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 33, 42, and 52 are amended as set forth below:

1. The authority citation for 48 CFR parts 33, 42, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 33—PROTESTS, DISPUTES, AND APPEALS

2. Section 33.201 is amended by revising the definition title "Alternative dispute resolution" to read "Alternative means of dispute resolution (ADR)", and inserting the word "assisted" before "settlement" in the second sentence; adding, in alphabetical order, the definition "Defective certification"; and revising the definition "Issue in controversy" to read as follows:

33.201 Definitions.

* * * * *

Defective certification, as used in this subpart, means a certificate which alters or otherwise deviates from the language in 33.207(c) or which is not executed by a person duly authorized to bind the contractor with respect to the claim. Failure to certify shall not be deemed to be a defective certification.

Issue in controversy means a material disagreement between the Government and the contractor which (1) may result in a claim or (2) is all or part of an existing claim.

* * * * *

3. Section 33.202 is amended by revising the first sentence of the paragraph to read as follows:

33.202 Contract Disputes Act of 1978.

The Contract Disputes Act of 1978, as amended (41 U.S.C. 601–613) (the Act), establishes procedures and requirements for asserting and resolving claims subject to the Act. * * *

4. Section 33.204 is revised to read as follows:

33.204 Policy.

The Government's policy is to try to resolve all contractual issues in controversy by mutual agreement at the contracting officer's level. Reasonable efforts should be made to resolve controversies prior to the submission of a claim. Agencies are encouraged to use ADR procedures to the maximum extent practicable. Certain factors, however, may make the use of ADR inappropriate (see 5 U.S.C. 572(b)). Except for arbitration conducted pursuant to the Administrative Dispute Resolution Act (ADRA), Public Law 100–522, agencies have authority which is separate from that provided by the ADRA to use ADR procedures to resolve issues in controversy. Agencies may also elect to proceed under the authority and requirements of the ADRA.

5. Sections 33.207 and 33.208 are revised to read as follows:

33.207 Contractor certification.

(a) Contractors shall provide the certification specified in 33.207(c) when submitting any claim—

(1) Exceeding $50,000; or

(2) Regardless of the amount claimed when using—

(i) Arbitration conducted pursuant to 5 U.S.C. 575–580; or

(ii) Any other ADR technique that the agency elects to handle in accordance with the ADRA.

(b) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(c) The certification shall state as follows:

I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the contractor.

(d) The aggregate amount of both the increased and decreased costs shall be used in determining when the dollar thresholds requiring certification are met (see example in 15.804–2(a)(1)(ii) regarding cost or pricing data).

(e) The certification may be executed by any person duly authorized to bind the contractor with respect to the claim.

(f) A defective certification shall not deprive a court or an agency BCA of jurisdiction over that claim. Prior to the entry of a final judgment by a court or a decision by an agency BCA, however, the court or agency BCA shall require a defective certification to be corrected.

33.208 Interest on claims.

(a) The Government shall pay interest on a contractor's claim on the amount found due and unpaid from the date that—

(1) The contracting officer receives the claim (certified if required by 33.207(a)); or

(2) Payment otherwise would be due, if that date is later, until the date of payment.

(b) Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the contracting officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim. (See 32.614 for the right of the Government to collect interest on its claims against a contractor).

(c) With regard to claims having defective certifications, as defined in 33.201, interest shall be paid from either the date that the contracting officer initially receives the claim or October 29, 1992, whichever is later. However, if a contractor has provided a proper certificate prior to October 29, 1992, after submission of a defective certificate, interest shall be paid from the date of receipt by the Government of a proper certificate.

6. Section 33.210 is amended by revising the introductory text to read as follows:

33.210 Contracting officer's authority.

Except as provided in this section, contracting officers are authorized, within any specific limitations of their warrants, to decide or resolve all claims arising under or relating to a contract subject to the Act. In accordance with agency policies and 33.214, contracting officers are authorized to use ADR procedures to resolve claims. The

authority to decide or resolve claims does not extend to—

* * * * *

7. Section 33.211 is amended by revising paragraph (a)(4)(v); redesignating paragraphs (e), (f), and (g) as (f), (g), and (h); and adding a new paragraph (e) to read as follows:

33.211 Contracting officer's decision.

(a) * * *

(4) * * *

(v) Paragraph substantially as follows: "This is the final decision of the Contracting Officer. You may appeal this decision to the agency board of contract appeals. If you decide to appeal, you must, within 90 days from the date you receive this decision, mail or otherwise furnish written notice to the agency board of contract appeals and provide a copy to the Contracting Officer from whose decision this appeal is taken. The notice shall indicate that an appeal is intended, reference this decision, and identify the contract by number. With regard to appeals to the agency board of contract appeals, you may, solely at your election, proceed under the board's small claim procedure for claims of $10,000 or less or its accelerated procedure for claims of $50,000 or less. Instead of appealing to the agency board of contract appeals, you may bring an action directly in the United States Court of Federal Claims (except as provided in the Contract Disputes Act of 1978, 41 U.S.C. 603, regarding Maritime Contracts) within 12 months of the date you receive this decision"; and

* * * * *

(e) The contracting officer shall have no obligation to render a final decision on any claim exceeding $50,000 which contains a defective certification, if within 60 days after receipt of the claim, the contracting officer notifies the contractor, in writing, of the reasons why any attempted certification was found to be defective.

* * * * *

8. Section 33.214 is amended by revising the section heading, the first sentence of the introductory text of paragraph (a), paragraphs (a)(5) and (b), and by adding paragraph (d) to read as follows:

33.214 Alternative dispute resolution (ADR).

(a) The objective of using ADR procedures is to increase the opportunity for relatively inexpensive and expeditious resolution of issues in controversy. * * *

(5) Certification by the contractor in accordance with 33.207 when using ADR procedures to resolve all or part of a claim under the authority of the ADRA.

(b) ADR procedures may be used at any time that the contracting officer has authority to resolve the issue in controversy. If a claim has been submitted, ADR procedures may be applied to all or a portion of the claim. When ADR procedures are used subsequent to the issuance of a contracting officer's final decision, their use does not alter any of the time limitations or procedural requirements for filing an appeal of the contracting officer's final decision and does not constitute a reconsideration of the final decision.

* * * * *

(d) The confidentiality of ADR proceedings shall be protected consistent with 5 U.S.C. 574.

PART 42—CONTRACT ADMINISTRATION

9. Section 42.302 is amended by revising paragraph (a)(10) to read as follows:

42.302 Contract administration functions.

(a) * * *

(10) Attempt to resolve issues in controversy, using ADR procedures when appropriate (see subpart 33.2); prepare findings of fact and issue decisions under the Disputes clause on matters in which the administrative contracting officer (ACO) has the authority to take definitive action.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Section 52.233–1 is amended by revising the date of the clause to read "(MAR 1994)" and revising paragraphs (d) through (h) to read as follows:

52.233–1 Disputes.

* * * * *

Disputes (Mar 1994)

* * * * *

(d)(1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2)(i) Contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim—

(A) Exceeding $50,000; or

(B) Regardless of the amount claimed, when using—

(1) Arbitration conducted pursuant to 5 U.S.C. 575–580; or

(2) Any other alternative means of dispute resolution (ADR) technique that the agency elects to handle in accordance with the Administrative Dispute Resolution Act (ADRA).

(ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.

(iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor."

(3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over $50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) At the time a claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use ADR. When using arbitration conducted pursuant to 5 U.S.C. 575–580, or when using any other ADR technique that the agency elects to handle in accordance with the ADRA, any claim, regardless of amount, shall be accompanied by the certification described in subparagraph (d)(2)(iii) of this clause, and executed in accordance with subparagraph (d)(3) of this clause.

(h) The Government shall pay interest on the amount found due and unpaid from (1) the date that the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

* * * * *

[FR Doc. 94–4395 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 42 and 47

[FAC 90–20; FAR Case 92–53; Item XV]

RIN 9000–AF32

Federal Acquisition Regulation; Defense Traffic Management Regulation

AGENCIES: Department of Defense (DOD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule to amend the coverage "Traffic and Transportation Management" of the Federal Acquisition Regulation (FAR) to update the title of the Defense Traffic Management Regulation and to add references to the Military Departments' and Defense Logistics Agency's regulations concerning traffic and transportation management. Cross references were also revised to update the title of the Defense Traffic Management Regulation.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 92–53.

SUPPLEMENTARY INFORMATION:

A. Background

The title of the Military Traffic Management Regulation was revised several years ago but has not been updated, where referenced, in the FAR.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. Therefore, the Regulatory Flexibility Act does not apply. However, comments from small entities concerning the affected subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAC 90–20, FAR case 92–53), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 42 and 47

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 42 and 47 are amended as set forth below:

PART 42–CONTRACT ADMINISTRATION

1. The authority citation for 48 CFR parts 42 and 47 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 42.1401 is amended by revising paragraph (b)(11) to read as follows:

42.1401 General.

* * * * *

(b) * * *

(11) Recommending, when appropriate, the use of commercial forms and procedures for small shipments of a recurring nature if transportation costs do not exceed $100, as authorized in 41 CFR 101–41.304–2 and, for the Department of Defense (DOD), in Chapter 32, Defense Traffic Management Regulation (DTMR) (AR 55–355, NAVSUPINST 4600.70, AFM 75–2, MCO P–4600.14A, DLAR 4500.3);

* * * * *

42.1402 [Amended]

3. Section 42.1402 is amended in the second sentence of paragraph (a)(2) by removing the words "Military Traffic Management Regulation (MTMR)" and inserting in their place "Defense Traffic Management Regulation (DTMR)".

4. Section 42.1403 is amended by revising paragraph (c)(2) to read as follows:

42.1403 Shipping documents covering f.o.b. origin shipments.

* * * * *

(c) * * *

(2) For DOD shipments, corresponding guidance is in Chapter 32 of the DTMR.

42.1405 [Amended]

5. Section 42.1405 is amended in the last sentence of paragraph (a) by removing "P4610.19" and inserting "P4610.19D" in its place.

PART 47—TRANSPORTATION

6. Section 47.103 is amended by revising paragraph (b)(2) to read as follows:

47.103 Transportation Documentation and Audit Regulation (TDA).

* * * * *

(b) * * *

(2) For DOD shipments, corresponding guidance is in Chapter 32 of the Defense Traffic Management Regulation (DTMR).

* * * * *

47.200 and 47.305 [Amended]

7. In section 47.200(e) remove the words "Military Traffic Management Regulation" and in 47.305–6(f)(1)(ii), remove the words "Military Traffic Management Regulation (MTMR)" and insert "Defense Traffic Management Regulation" in each place.

[FR Doc. 94–4396 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

48 CFR Part 45

[FAC 90–20; FAR Case 91–73; Item XVI]

RIN 9000–AF02

Federal Acquisition Regulation; Records of Plant Equipment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council (CAAC) and the Defense Acquisition Regulations Council (DARC) have agreed on a final rule to amend the Federal Acquisition Regulation (FAR) under Management of Government Property in the Possession of Contractors, to add language on the use of summary records and expand the use of summary records to special tooling and special test equipment costing less than $5,000.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–73.

SUPPLEMENTARY INFORMATION:

A. Background

The CAAC and the DARC have approved a final rule changing FAR Subpart 45.5, originating from a proposal from industry, to expand the use of summary records for recording and controlling plant equipment to special tooling and special test equipment. A proposed rule was published in the **Federal Register** at 57 FR 40891, September 8, 1992. Under this rule, summary records are permitted to account for multiple quantities of a line item of plant

equipment, special tooling and special test equipment costing less than $5,000, except when the contracting officer determines that individual records are necessary for effective control, calibration, or maintenance. Industry has advised that control and recordkeeping burden is a problem on certain items of individual equipment below $5,000, because of the need to alter property records each time an item in this category is moved within the contractor's facilities. This rule will permit listing only a general location in the summary record for multiple quantities of plant equipment, special tooling, and special test equipment costing less than $5,000 per unit, provided the contractor can locate the property within a reasonable period of time.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule expands the use of summary records to special tooling and special test equipment, thus reducing administrative burden on contractors. We received no comments on the Regulatory Flexibility Act statement in the proposed rule during the public comment period.

C. Paperwork Reduction Act

This rule reduces existing recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* It reduces the information collection hours by extending use of the summary records to special tooling and special test equipment. Therefore, the Paperwork Reduction Act (Pub. L. 96–511) is deemed to apply because the final rule contains information collection requirements. This reduction in burden has been reflected in a revised clearance for Control Number 9000–0075 submitted under 44 U.S.C. 3501 *et seq.* on October 18, 1993, for approval. Public comments concerning this request will be invited through a subsequent **Federal Register** notice.

List of Subjects in 48 CFR Part 45

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 45 is amended as set forth below:

PART 45—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 45 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 45.501 is amended by adding "Summary record" in alphabetical order to read as follows:

§ 45.501 Defintions.

* * * * *

Summary record, as used in this subpart, means a separate card, form, document or specific line(s) of computer data used to account for multiple quantities of a line item of special tooling, special test equipment, or plant equipment costing less than $5,000 per unit.

* * * * *

3. Section 45.505–1 is amended by designating the introductory paragraph as paragraph (a); redesignating paragraphs (a) through (g) as (1) through (7); amending the new paragraph (a) by removing the reference "45.505–5a(a)" and inserting "paragraph (b) of this section"; and adding paragraph (b) to read as follows:

§ 45.505–1 Basic information.

* * * * *

(b) Summary records are normally adequate for special tooling, special test equipment, and plant equipment costing less than $5,000 per unit, except where the contract administration office determines that individual item records are necessary for effective control, calibration, or maintenance. Summary records shall provide the information listed in paragraphs (a)(1) through (a)(7) of this section, but may reference a general location, provided the contractor can locate the property within a reasonable period of time.

4. Section 45.505–4 is amended by revising paragraph (a) to read as follows:

§ 45.505–4 Records of special tooling and special test equipment.

* * * * *

(a) Unless summary records are used as authorized under 45.505–1(b), the contractor's property control system shall provide the basic information listed in 45.505–1(a) regarding each item of Government-owned special tooling and special test equipment, including any general purpose test equipment incorporated as components in such a manner that removal and reuse may be feasible and economical.

* * * * *

5. Section 45.505–5 is amended by revising paragraph (a) to read as follows:

§ 45.505–5 Records of plant equipment.

(a) Unless summary records are used as authorized under 45.505–1(b), the contractor shall maintain individual item records for each item of plant equipment.

* * * * *

[FR Doc. 94–4397 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Part 45

[FAC 90–20; FAR Case 91–58; Item XVII]

RIN 9000–AE88

Federal Acquisition Regulation; Reports of Government Property

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to amend the coverage under Reports of Government Property, to require contractors to report annually all classifications of Government property in their possession. The amendment expands the list of property classifications to be reported to include special tooling, special test equipment, material, and agency peculiar property. The amendment is considered necessary to ensure that the classes of property reported are the same as those defined and to improve the Federal Government's visibility of Government property in the hands of contractors.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–58.

SUPPLEMENTARY INFORMATION:

A. Background

An amendment to FAR 45.505–14, Reports of Government Property, was published in the **Federal Register** as a proposed rule, with a request for comments (see 57 FR 2818, January 23, 1992). The five responses that were received consisted of one no comment and four comments. Comments

included recommendations to: (1) Revise the beginning of the first sentence of 45.505–14(a); (2) Revise 45.505–14(a)(6) to exempt material issued from stock; (3) establish a standard reporting date for reports of Government property; (4) revise 45.506(b) to delete the reference to $5,000; and (5) revise subparagraphs (a)(4) and (a)(6) of 45.505–14, to include the phrase "not required for nonprofit organizations." After the comments were evaluated, the Councils agreed to publish the rule as a final rule without change.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule, while an expanded version of that now in the FAR, is currently in effect in regulations used by the agencies (DOD and NASA) who are accountable for the majority of Government property in the possession of contractors. The rule, therefore, will have a negligible increased effect on small businesses in custody of Government property.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Public Law 96–511) is deemed to apply because the final rule contains information collection requirements. Accordingly, a request for approval of a new information collection requirement concerning Office of Management and Budget (OMB) Control Number 9000–0075, Government-furnished property requirements, was submitted to OMB under 44 U.S.C. 3501, *et seq.* On March 2, 1992, OMB cleared this information collection through March 31, 1995. A revised OMB clearance for all of part 45, including this burden, was submitted to OMB on October 18, 1993, for approval. No public comments concerning this request were received.

List of Subjects in 48 CFR Part 45

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 45 is amended as set forth below:

PART 45—GOVERNMENT PROPERTY

1. The authority citation for 48 CFR part 45 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Section 45.505–14 is amended by revising paragraph (a) to read as follows:

45.505–14 Reports of Government property.

(a) The contractor's property control system shall provide annually the total acquisition cost of Government property for which the contractor is accountable under each contract with each agency, including Government property at subcontractor plants and alternate locations. The following classifications (property classifications may be varied to meet individual agency needs) shall be reported:

(1) Land and rights therein.

(2) Other real property, including utility distribution systems, buildings, structures, and improvements thereto.

(3) Plant equipment.

(4) Special tooling.

(5) Special test equipment.

(6) Material.

(7) Agency peculiar property.

* * * * *

[FR Doc. 94–4398 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 47 and 52

[FAC 90–20; FAR Case 91–10; Item XVIII]

RIN 9000–AE66

Federal Acquisition Regulation; Returnable Cylinders

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed on a final rule that amends the Federal Acquisition Regulation (FAR) by adding a clause entitled Returnable Cylinders, with its prescriptive language. The clause prescribes the Government's responsibilities relating to the return and accountability of contractor-furnished returnable cylinders.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501–3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4037, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 91–10.

SUPPLEMENTARY INFORMATION:

A. Background

This change was recommended as a result of the Defense Management Review Regulatory Reform initiative. The Councils determined that language in FAR supplements would be useful for all Federal contracting activities. The proposed rule was published in the **Federal Register** at 56 FR 14298, April 8, 1991. Five substantive comments were received. After evaluating the comments, the coverage has been amended (1) to apply only to cylinders; (2) by adding a definition of the term "cylinder" in the clause; (3) by revising paragraphs (a) and (b) of the clause to eliminate inconsistencies; and (4) to refer to a "loan period" in place of the debit/credit concept previously referenced.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because it prescribes Government responsibilities related to the return and accountability of returnable cylinders without imposing an additional burden on contractors.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 47 and 52

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore 48 CFR parts 47 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 47 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 47—TRANSPORTATION

2. Section 47.305–17 is added to read as follows:

47.305–17 Returnable cylinders.

The contracting officer shall insert the clause at 52.247–66, Returnable Cylinders, in a solicitation and contract whenever the contract involves the purchase of gas in contractor-furnished returnable cylinders and the contractor retains title to the cylinders.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 52.247–66 is added to read as follows:

52.247–66 Returnable Cylinders.

As prescribed in 47.305–17, insert the following clause:

Returnable Cylinders (May 1994)

(a) Cylinder, referred to in this clause, is a pressure vessel designed for pressures higher than 40 psia and having a circular cross section excluding a portable tank, multitank car tank, cargo tank or tank car.

(b) Returnable cylinders shall remain the Contractor's property but shall be loaned without charge to the Government for a period of ____ days [Contracting Officer shall insert number of days] (hereafter referred to as loan period) following the day of delivery to the f.o.b. point specified in the contract. Any cylinder not returned within the loan period shall be charged a daily rental beginning with the first day after the loan period expires, to and including the day the cylinders are delivered to the Contractor (if the original delivery was f.o.b. origin) or are delivered or made available for delivery to the Contractor's designated carrier (if the original delivery was f.o.b. destination). The Government shall pay the Contractor a rental of $_____ [Contracting Officer shall insert dollar amount for rental, after evaluation of offers] per cylinder, per day, computed separately for cylinders by type, size, and capacity and for each point of delivery named in the contract. No rental shall accrue to the Contractor in excess of replacement value per cylinder specified in paragraph (c) of this clause.

(c) For each cylinder lost or damaged beyond repair while in the Government's possession, the Government shall pay to the Contractor the replacement value, less the allocable rental paid for that cylinder as follows: _____ [Contracting Officer shall insert the cylinder types, sizes, capacities, and associated replacement values.] These cylinders shall become Government property.

(d) If any lost cylinder is located within _____ [Contracting Officer shall insert number of days] calendar days after payment by the Government, it may be returned to the Contractor by the Government, and the Contractor shall pay to the Government an amount equal to the replacement value, less rental computed in accordance with paragraph (b) of this clause, beginning at the expiration of the loan period specified in paragraph (b) of this clause, and continuing to the date on which the cylinder was delivered to the Contractor.

(End of clause)

[FR Doc. 94–4399 Filed 3–9–94; 8:45 am]
BILLING CODE 6820–34–M

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48 CFR Part 52

[FAC 90–20; FAR Case 93–305; Item XIX]

Federal Acquisition Regulation; Small Business Innovation Research Rights in Data

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council have agreed to an interim rule that amends the Federal Acquisition Regulation (FAR) under the clause Rights in Data—Small Business Innovation Research Program, to increase the small business concern's data rights retention period from 2 to 4 years. This amendment implements Section 15(f) of the revised Small Business Innovation Research (SBIR) Program Policy Directive, published by the Small Business Administration (SBA) in the **Federal Register** at 58 FR 6144, January 26, 1993.

DATES: *Effective Date:* March 10, 1994. *Comment Date:* Comments should be submitted to the FAR Secretariat at the address shown below on or before May 9, 1994 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., room 4035, Attn: Ms. Beverly Fayson, Washington, DC 20405.

Please cite FAC 90–20, FAR case 93–305 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill at (202) 501–3856 in reference to this FAR case. For general information, contact the FAR Secretariat, Room 4035, GS Building, Washington, DC 20405 (202) 501–4755. Please cite FAC 90–20, FAR case 93–305.

SUPPLEMENTARY INFORMATION:

A. Background

This rule implements subsection 15(f) of the revised SBIR Program Policy Directive, published by the SBA in the **Federal Register** at 58 FR 6144, January 26, 1993. Subsection 15(f) implements subsection 103(f)(4) of Public Law 102–564, Small Business Research and Development Enhancement Act of 1992, which increases the small business concern's data rights retention period from 2 to 4 years.

B. Regulatory Flexibility Act

The changes may have a significant beneficial economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it is expected that this interim rule will benefit small businesses as it increases the small business concern's data rights retention period under the SBIR program from 2 to 4 years. As Initial Regulatory Flexibility Analysis (IRFA) has, therefore, not been prepared. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and cite 5 U.S.C. 601, *et seq.* (FAR Case 93–305), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DOD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to implement subsection 15(f) of the revised SBIR Program Policy Directive, published by the SBA in the **Federal Register** at 58 FR 6144, January 26, 1993, and subsection 103(f)(4) of Public Law 102–564, Small Business Research and Development Enhancement Act of 1992. Pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this notice will be considered in formulating the final rule.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: February 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR part 52 is amended as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

§ 52.227–20 [Amended]

2. Section 52.227–20 is amended by revising the date of the clause to read "(MAR 1994)"; in paragraph (d) of the clause, the "SBIR Rights Notice" is amended in the title by revising the date to read "(MAR 1994)"; by amending in the second sentence of the Notice "2 years" to read "4 years"; and by amending in the third sentence of the Notice "2-year period" to read "4-year period".

[FR Doc. 94–4400 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

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48 CFR Parts 1, 3, 5, 15, 16, 19, 31, 42, 48, 52, and 53

[Federal Acquisition Circular 90–20; Item XX]

Federal Acquisition Regulation; Corrections and Technical Amendments

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; Technical corrections.

SUMMARY: Technical corrections are being made to FAR parts 1, 3, 5, 15, 16, 19, 31, 42, 48, 52, and 53 to correct errors, omissions, inconsistencies, references, and terms.

DATES: *Effective Date:* March 10, 1994.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 501–4755. Please cite FAC 90–20, Corrections and Technical Amendments.

List of Subjects in 48 CFR Parts 1, 3, 5, 15, 16, 19, 31, 42, 48, 52 and 53

Government procurement.

Dated: Feb. 15, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, 48 CFR parts 1, 3, 5, 15, 16, 19, 31, 42, 48, 52, and 53 are amended as set forth in the technical corrections appearing below:

1. The authority citation for 48 CFR parts 1, 3, 5, 15, 16, 19, 31, 42, 48, 52, and 53 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.404 [Nomenclature change]

2. Section 1.404(c) is amended by revising "Assistant Administrator for Procurement" to read "Associate Administrator for Procurement".

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3.104–9 [Corrected]

3. Section 3.104–9(c)(2) is amended in item 1 of the certificate entitled "Contracting Officer Certificate of Procurement Integrity" by adding "I" after "certificate,".

PART 5—PUBLICIZING CONTRACT ACTIONS

5.207 [Nomenclature change]

4. Section 5.207(b) is amended in the last sentence of Item 4 of "Format Item and Explanation/Description of Entry" by removing the words "National Bureau of Standards" and inserting "National Institute of Standards and Technology (NIST)" in its place.

PART 15—CONTRACTING BY NEGOTIATION

15.804–6

[Corrected]

5. Section 15.804–6 is corrected in the second sentence of paragraph 1 of Table 15–2 by revising "7A" to read "8A".

PART 16—TYPES OF CONTRACTS

6. Section 16.204 is amended by revising the third sentence and adding a fourth sentence to read as follows:

16.204 Fixed-price incentive contracts.

* * * See 16.403 for more complete descriptions, application, and limitations for these contracts. Prescribed clauses are found at 16.405.

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

7. Section 19.102 is amended in the table consisting of industry size standards in Major Group 73, by revising SIC codes 7371 through 7379 to read as follows:

19.102 Size standards.

* * * * *

MAJOR GROUP 73—BUSINESS SERVICES

*	* * * *	
7371	Computer Programming Services.	$14.5
7372	Prepackaged Software	14.5
7373	Computer Integrated Systems Design.	14.5
7374	Computer Processing and Data Preparation and Processing Services.	14.5
7375	Information Retrieval Services.	14.5
7376	Computer Facilities Management Services.	14.5
7377	Computer Rental and Leasing.	14.5
7378	Computer Maintenance and Repair.	14.5
7379	Computer Related Services, N.E.C.	14.5
*	* * * *	

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–38 [Corrected]

8. Section 31.205–38 is corrected in paragraph (c)(2)(iii) by revising "December 22" to read "December 15".

PART 42—CONTRACT ADMINISTRATION

42.701 [Corrected]

9. Section 42.701 is corrected in the definition "business unit" by revising the parenthetical to read "(see 31.001)".

PART 48—VALUE ENGINEERING

48.104–1 [Corrected]

10. Section 48.104–1 is corrected in paragraph (a)(2)(i) by removing the word "new" and inserting "net" in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

11. Section 52.210–1 is amended by revising the heading and paragraph (a) of the provision to read as follows:

52.210–1 Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.

* * * * *

(a) A single copy of each specification cited in this solicitation is available without charge from the GSA Federal Supply Service Bureau Specifications Section (3FBP–W), 470 East L'Enfant Plaza, SW., suite 8100, Washington, DC 20407 (Tel. 202–755–0325 or 755–0326), or from any of the General Services

Administration Business Service Centers which are located in Boston, MA; New York, NY; Philadelphia, PA; Atlanta, GA; Kansas City, MO; and Fort Worth, TX. Additional copies may be purchased from the GSA Specifications Section in Washington, DC.

* * * * *

52.201–2 [Amended]

12. Section 52.210–2 is amended in the last paragraph of the provision by removing the entries "Telex Number", "Western Union Number", and "Telephone Number" and inserting "Facsimile No. 215–697–2978" in their place.

52.228–8 [Corrected]

13. Section 52.228–8 is corrected in the introductory text by adding an "s" to "solicitation", and at the end of paragraph (a)(2) of the clause by revising the parenthetical to read "(28 U.S.C. 2671–2680)".

14. Section 52.232–25 is corrected in the introductory text by reinstating paragraph (b), [inadvertently removed at 54 FR 1337, March 31, 1989], to read as follows:

52.232–25 Prompt payment.

* * * * *

(b) As prescribed in 32.906(a) and only as allowed under agency policies and procedures, the Contracting Officer may insert in paragraph (b) of the clause a period shorter than 30 days (but not less than 7 days) for making contract financing payments.

* * * * *

52.246–21 [Corrected]

15. Section 52.246–21 is corrected in paragraph (a) of the clause by revising "paragraph (j)" to read "paragraph (i)".

PART 53—FORMS

53.213 [Corrected]

16. Section 53.213 is corrected in the section heading by adding an "s" to the end of the word "purchase" the first time it is used.

53.214 [Amended]

17. Section 53.214 is amended at the end of paragraphs (a) and (c) by adding a sentence to read as follows: "Pending issuance of a new edition of the form, the reference in block 1 should be amended to read 15 CFR 700."

18. Section 53.222 is amended at the end of paragraph (e) by adding a sentence to read as follows:

53.222 Application of labor laws to Government acquisitions (SF's 99, 308, 1093, 1413, 1444, 1445, 1446, WH–347).

* * * * *

(e) * * * Pending issuance of a new edition of the form, the "prescribed by" reference at the bottom right of the form is revised to read "53.222(e)".

* * * * *

Subpart 53.3—Illustration of Forms

19. In section 53.301–254, Standard Form 254 is revised; in section 53.301–255, Standard Form 255 is revised; and in section 53.302–333 Optional Form 333 is revised to read as follows:

BILLING CODE 6820–34–M

STANDARD FORM (SF) **254**

Architect–Engineer and Related Services Questionnaire

Form Approved
OMB No. 9000–0004

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000–0004), Washington, D.C. 20503.

Purpose:
The policy of the Federal Government in acquiring architectural, engineering, and related professional services is to encourage firms lawfully engaged in the practice of those professions to submit annually a statement of qualifications and performance data. Standard Form 254, "Architect-Engineer and Related Services Questionnaire," is provided for that purpose. Interested A-E firms (including new, small, and/or minority firms) should complete and file SF 254's with each Federal agency and with appropriate regional or district offices for which the A-E is qualified to perform services. The agency head for each proposed project shall evaluate these qualification resumes, together with any other performance data on file or requested by the agency, in relation to the proposed project. The SF 254 may be used as a basis for selecting firms for discussions, or for screening firms preliminary to inviting submission of additional information.

Definitions:
"Architect-Engineer Services" are defined in Part 36 of the Federal Acquisition Regulation.
"Parent Company" is that firm, company, corporation, association or conglomerate which is the major stockholder or highest tier owner of the firm completing this questionnaire; i.e., Firm A is owned by Firm B which is, in turn, a subsidiary of Corporation C. The "parent company" of Firm A is Corporation C.
"Principals" are those individuals in a firm who possess legal responsibility for its management. They may be owners, partners, corporate officers, associates, administrators, etc.
"Discipline," as used in this questionnaire, refers to the primary technological capability of individuals in the responding firm. Possession of an academic degree, professional registration, certification, or extensive experience in a particular field of practice normally reflects an individual's primary technical discipline.
"Joint Venture" is a collaborative undertaking by two or more firms or individuals for which the participants are both jointly and individually responsible.
"Consultant," as used in this questionnaire, is a highly specialized individual or firm having significant input and responsibility for certain aspects of a project and possessing unusual or unique capabilities for assuring success of the finished work.
"Prime" refers to that firm which may be coordinating the concerted and complementary inputs of several firms, individuals or related services to produce a completed study or facility. The "prime" would normally be regarded as having full responsibility and liability for quality of performance by itself as well as by subcontractor professionals under its jurisdiction.
"Branch Office" is a satellite, or subsidiary extension, of a headquarters office of a company, regardless of any differences in name or legal structure of such a branch due to local or state laws. "Branch offices" are normally subject to the management decisions, bookkeeping, and policies of the main office.

Instructions for Filing (Numbers below correspond to numbers contained in form):
1. Type accurate and complete name of submitting firm, its address, and zip code.
   1a. Indicate whether form is being submitted in behalf of a parent firm or a branch office. (Branch office submissions should list only personnel in, and experience of, that office.)
2. Provide date the firm was established under the name shown in question 1.
3. Show date on which form is prepared. All information submitted shall be current and accurate as of this date.
4. Enter type of ownership, or legal structure, of firm (sole proprietor, partnership, corporation, joint venture, etc.).
   Check appropriate boxes indicating if firm is (a) a small business concern; (b) a small business concern owned and operated by socially and economically disadvantaged individuals; and (c) Woman-owned (See 48 CFR 19.101 and 52.219-9).
5. Branches of subsidiaries of large or parent companies, or conglomerates, should insert name and address of highest-tier owner.
   5a. If present firm is the successor to, or outgrowth of, one or more predecessor firms, show name(s) of former entity(ies) and the year(s) of their original establishment.
6. List not more than two principals from submitting firm who may be contacted by the agency receiving this form. (Different principals may be listed on forms going to another agency.) Listed principals must be empowered to speak for the firm on policy and contractual matters.
7. Beginning with the submitting office, list name, location, total number of personnel, and telephone numbers for all associated or branch offices, (including any headquarters or foreign offices) which provide A-E and related services.
   7a. Show total personnel in all offices. (Should be sum of all personnel, all branches.)
8. Show total number of employees, by discipline, in submitting office. (*If form is being submitted by main or headquarters office, firm should list total employees, by discipline, in all offices.) While some personnel may be qualified in several disciplines, each person should be counted only once in accord with his or her primary function. Include clerical personnel as "administrative." Write in any additional disciplines--sociologists, biologists, etc. -- and number of people in each, in blank spaces.

STANDARD FORM (SF) 254

Architect–Engineer and Related Services Questionnaire

9. Using chart (below) insert appropriate index number to indicate range of professional services fees received by submitting firm each calendar year for last five years, most recent year first. Fee summaries should be broken down to reflect the fees received each year for (a) work performed directly for the Federal Government (not including grant and loan projects) or as a sub to other professionals performing work directly for the Federal Government; (b) all other domestic work, U.S. and possessions, including Federally-assisted projects, and (c) all other foreign work.

Ranges of Professional Services Fees

INDEX	INDEX
1. Less than $100,000	5. $1 million to $2 million
2. $100,000 to $250,000	6 $2 million to $5 million
3. $250,000 to $500,000	7. $5 million to $10 million
4. $500,000 to $1 million	8. $10 million or greater

10. Select and enter, in numerical sequence, **not more than thirty** (30) "Experience Profile Code" numbers from the listing (next page) which most accurately reflect submitting firm's demonstrated technical capabilities and project experience. **Carefully review list.** (It is recognized some profile codes may be part of other services or projects contained on list; firms are encouraged to select profile codes which best indicate type and scope of services provided on past projects.) For each code number, show total number of projects and gross fees (in thousands) received for profile projects performed by firm during past few years. If firm has one or more capabilities not included on list, insert same in blank spaces at end of list and show numbers in question 10 on the form. In such cases, the filled-in listing **must** accompany the complete SF 254 when submitted to the Federal agencies.

11. Using the "Experience Profile Code" numbers in the same sequence as entered in item 10, give details of at least one recent (within last five years) representative project for each code number, up to a **maximum** of thirty (30) separate projects, or portions of projects, for which firm was responsible. (Project examples may be used more than once to illustrate different services rendered on the same job. Example: a dining hall may be part of an auditorium or educational facility.) Firms which select less than thirty "profile codes" may list two or more project examples (to illustrate specialization) for each code number so long as total of all project examples does not exceed thirty (30). After each code number in question 11, show: (a) whether firm was "P," the prime professional, or "C," a consultant, or "JV," part of a joint venture on that particular project (new firms, in existence less than five (5) years may use the symbol "IE" to indicate "Individual Experience" as opposed to firm experience); (b) provide name and location of the specific project which typifies firm's (or individual's) performance under that code category; (c) give name and address of the owner of that project (if government agency indicate responsible office); (d) show the estimated construction cost (or other applicable cost) for that portion of the project for which the firm was primarily responsible. (Where no construction was involved, show approximate cost of firm's work); and (e) state year work on that particular project was, or will be, completed.

12. The completed SF 254 should be signed by a principal of the firm, preferably the chief executive officer.

13. Additional data, brochures, photos, etc. should not accompany this form unless specifically requested.

NEW FIRMS (not reorganized or recently-amalgamated firms) are eligible and encouraged to seek work from the Federal Government in connection with performance of projects for which they are qualified. Such firms are encouraged to complete and submit Standard Form 254 to appropriate agencies. Questions on the form dealing with personnel or experience may be answered by citing experience and capabilities of individuals in the firm, based on performance and responsibility while in the employee of others. In so doing, notation of this fact should be made on the form. In question 9, write in "N/A" to indicate "not applicable" for those years prior to firm's organization.

Experience Profile Code Numbers for use with questions 10 and 11

001 Acoustics, Noise Abatement
002 Aerial Photogrammetry
003 Agricultural Development; Grain Storage; Farm Mechanization
004 Air Pollution Control
005 Airports; Navaids; Airport Lighting; Aircraft Fueling
006 Airports; Terminals & Hangars; Freight Handling
007 Arctic Facilities
008 Auditoriums & Theatres
009 Automation; Controls; Instrumentation
010 Barracks; Dormitories
011 Bridges
012 Cemeteries *(Planning & Relocation)*
013 Chemical Processing & Storage
014 Churches; Chapels
015 Codes; Standards; Ordinances
016 Cold Storage; Refrigeration; Fast Freeze
017 Commercial Building *(low rise)*; Shopping Centers
018 Communications Systems; TV; Microwave
019 Computer Facilities; Computer Service
020 Conservation and Resource Management
021 Construction Management
022 Corrosion Control; Cathodic Protection; Electrolysis
023 Cost Estimating
024 Dams *(Concrete; Arch)*
025 Dams *(Earth; Rock)*; Dikes; Levees
026 Desalinization *(Process & Facilities)*
027 Dining Halls; Clubs; Restaurants
028 Ecological & Archeological Investigations
029 Educational Facilities; Classrooms
030 Electronics
031 Elevators; Escalators; People-Movers
032 Energy Conservation; New Energy Sources
033 Environmental Impact Studies, Assessments or Statements
034 Fallout Shelters; Blast-Resistant Design
035 Field Houses; Gyms; Stadiums
036 Fire Protection
037 Fisheries; Fish Ladders
038 Forestry & Forest Products
039 Garages; Vehicle Maintenance Facilities; Parking Decks
040 Gas Systems *(Propane; Natural, Etc.)*
041 Graphic Design
042 Harbors; Jetties; Piers, Ship Terminal Facilities
043 Heating; Ventilating; Air Conditioning
044 Health Systems Planning
045 Highrise; Air-Rights-Type Buildings
046 Highways; Streets; Airfield Paving Parking Lots
047 Historical Preservation
048 Hospital & Medical Facilities
049 Hotels; Motels
050 Housing *(Residential, Multi-Family; Apartments; Condominiums)*
051 Hydraulics & Pneumatics
052 Industrial Buildings; Manufacturing Plants
053 Industrial Processes; Quality Control
054 Industrial Waste Treatment
055 Interior Design; Space Planning
056 Irrigation; Drainage
057 Judicial and Courtroom Facilities
058 Laboratories; Medical Research Facilities
059 Landscape Architecture
060 Libraries; Museums; Galleries
061 Lighting *(Interiors; Display; Theatre, Etc.)*
062 Lighting *(Exteriors; Streets; Memorials; Athletic Fields, Etc.)*
063 Materials Handling Systems; Conveyors; Sorters
064 Metallurgy
065 Microclimatology; Tropical Engineering
066 Military Design Standards
067 Mining & Mineralogy
068 Missile Facilities *(Silos; Fuels; Transport)*
069 Modular Systems Design; Pre-Fabricated Structures or Components
070 Naval Architecture; Off-Shore Platforms
071 Nuclear Facilities; Nuclear Shielding
072 Office Buildings; Industrial Parks
073 Oceanographic Engineering
074 Ordnance; Munitions; Special Weapons
075 Petroleum Exploration; Refining
076 Petroleum and Fuel *(Storage and Distribution)*
077 Pipelines *(Cross-Country - Liquid & Gas)*
078 Planning *(Community, Regional, Areawide and State)*
079 Planning *(Site, Installation, and Project)*
080 Plumbing & Piping Design
081 Pneumatic Structures, Air-Support Buildings
082 Postal Facilities
083 Power Generation, Transmission, Distribution
084 Prisons & Correctional Facilities
085 Product, Machine & Equipment Design
086 Radar; Sonar; Radio & Radar Telescopes
087 Railroad; Rapid Transit
088 Recreation Facilities *(Parks, Marinas, Etc.)*
089 Rehabilitation *(Buildings; Structures; Facilities)*
090 Resource Recovery; Recycling
091 Radio Frequency Systems & Shieldings
092 Rivers; Canals; Waterways; Flood Control
093 Safety Engineering; Accident Studies; OSHA Studies
094 Security Systems; Intruder & Smoke Detection
095 Seismic Designs & Studies
096 Sewage Collection, Treatment and Disposal
097 Soils & Geologic Studies; Foundations
098 Solar Energy Utilization
099 Solid Wastes; Incineration; Land Fill
100 Special Environments; Clean Rooms, Etc.
101 Structural Design; Special Structures
102 Surveying; Platting; Mapping; Flood Plain Studies
103 Swimming Pools
104 Storm Water Handling & Facilities
105 Telephone Systems *(Rural; Mobile; Intercom, Etc.)*
106 Testing & Inspection Services
107 Traffic & Transportation Engineering
108 Towers *(Self-Supporting & Guyed Systems)*
109 Tunnels & Subways
110 Urban Renewals; Community Development
111 Utilities *(Gas & Steam)*
112 Value Analysis; Life-Cycle Costing
113 Warehouses & Depots
114 Water Resources; Hydrology; Ground Water
115 Water Supply; Treatment and Distribution
116 Wind Tunnels; Research/Testing Facilities Design
117 Zoning; Land Use Studies
201 _____
202 _____
203 _____
204 _____
205 _____

STANDARD FORM (SF)

254

Architect-Engineer and Related Services Questionnaire

1. Firm Name/Business Address:

2. Year Present Firm Established

3. Date Prepared:

4. Specify type of ownership and check below, if applicable.

- ☐ A. Small Business
- ☐ B. Small Disadvantaged Business
- ☐ C. Woman-owned Business

1a. Submittal is for ☐ Parent Company ☐ Branch or Subsidiary Office

5. Name of Parent Company, if any:

5a. Former Parent Company Name(s), if any, and Year(s) Established:

6. Names of not more than Two Principals to Contact: Title/Telephone

1)

2)

7. Present Offices: City / State / Telephone / No. Personnel Each Office

7a. Total Personnel _____

8. Personnel by Discipline: (List each person only once, by primary function.)

____ Administrative	____ Electrical Engineers	____ Oceanographers	____ _____
____ Architects	____ Estimators	____ Planners: Urban/Regional	____ _____
____ Chemical Engineers	____ Geologists	____ Sanitary Engineers	____ _____
____ Civil Engineers	____ Hydrologists	____ Soils Engineers	____ _____
____ Construction Inspectors	____ Interior Designers	____ Specification Writers	____ _____
____ Draftsmen	____ Landscape Architects	____ Structural Engineers	____ _____
____ Ecologists	____ Mechanical Engineers	____ Surveyors	____ _____
____ Economists	____ Mining Engineers	____ Transportation Engineers	____ _____

9. Summary of Professional Services Fees Received: (Insert index number)

	Last 5 Years (most recent year first)				
	19____	19____	19____	19____	19____
Direct Federal contract work, including overseas					
All other domestic work					
All other foreign work*					

*Firms interested in foreign work, but without such experience, check here: ☐

Ranges of Professional Services Fees
INDEX
1. Less than $100,000
2. $100,000 to $250,000
3. $250,000 to $500,000
4. $500,000 to $1 million
5. $1 million to $2 million
6. $2 million to $5 million
7. $5 million to $10 million
8. $10 million or greater

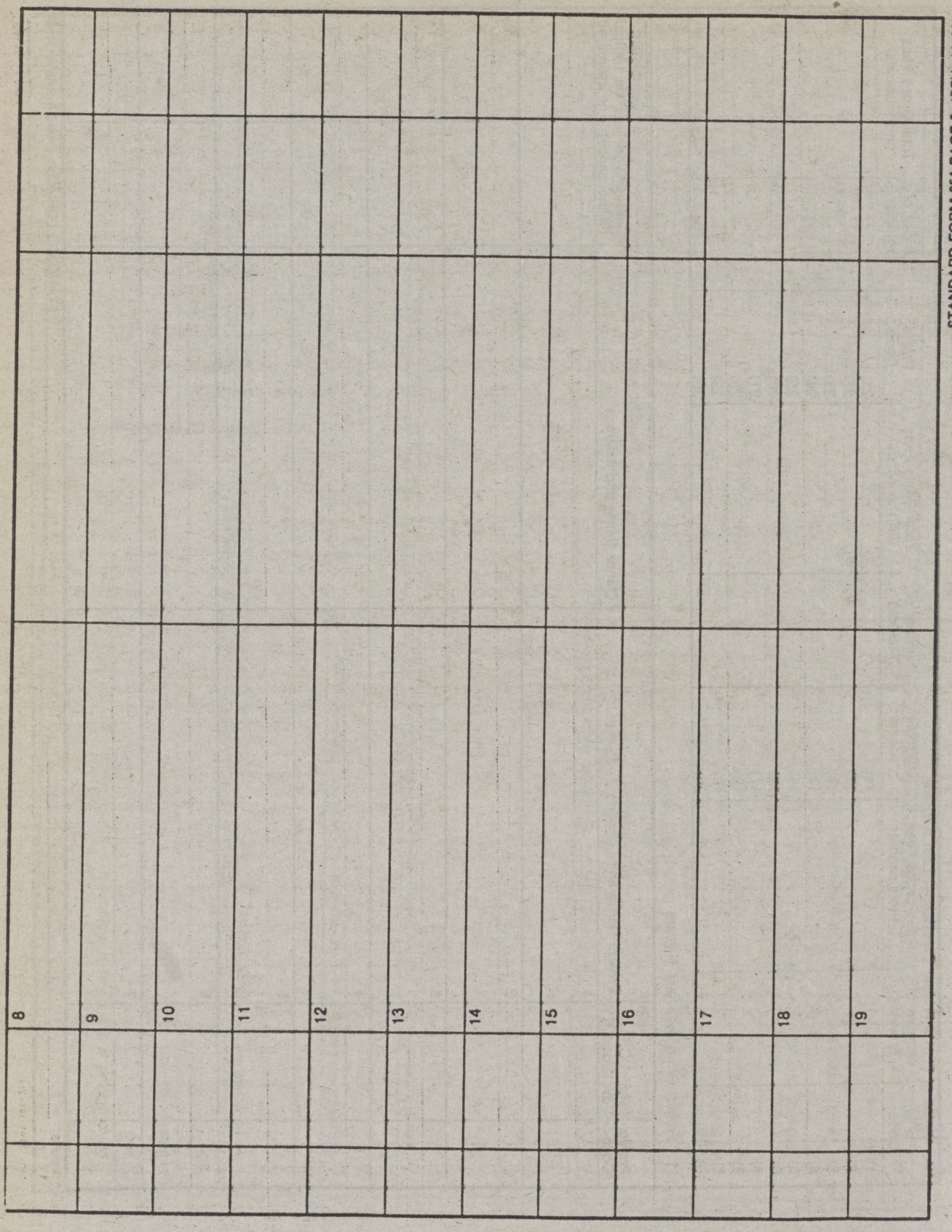
10. Profile of Firm's Project Experience, Last 5 Years

Profile Code	Number of Projects	Total Gross Fees (in thousands)	Profile Code	Number of Projects	Total Gross Fees (in thousands)	Profile Code	Number of Projects	Total Gross Fees (in thousands)
1)			11)			21)		
2)			12)			22)		
3)			13)			23)		
4)			14)			24)		
5)			15)			25)		
6)			16)			26)		
7)			17)			27)		
8)			18)			28)		
9)			19)			29)		
10)			20)			30)		

11. Project Examples, Last 5 Years

Profile Code	"P," "C," "JV," or "IE"	Project Name and Location	Owner Name and Address	Cost of Work (in thousands)	Completion Date (Actual or Estimated)
		1			
		2			
		3			
		4			
		5			
		6			
		7			

STANDARD FORM 254 PAGE 5 (REV. 11-92)


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STANDARD FORM 254 PAGE 6 (REV. 11-92)

		20			
		21			
		22			
		23			
		24			
		25			
		26			
		27			
		28			
		29			
		30			

12. The foregoing is a statement of facts

Signature: _____ Typed Name and Title: _____ Date:

*U.S. GPO: 1993-351-246

STANDARD FORM (SF) 255

Architect–Engineer and Related Services Questionnaire for Specific Project

Form Approved
OMB No. 9000–0005

Public reporting burden for this collection of information is estimated to average 1.2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat (VRS), Office of Federal Acquisition and Regulatory Policy, GSA, Washington, D.C. 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0005), Washington, D.C. 20503.

Purpose:

This form is a supplement to the "Architect-Engineer and Related Services Questionnaire" (SF 254). Its purpose is to provide additional information regarding the qualifications of interested firms to undertake a specific Federal A-E project. Firms, or branch offices of firms, submitting this form should enclose (or already have on file with the appropriate office of the agency) a current (within the past year) and accurate copy of the SF 254 for that office.

The procurement official responsible for each proposed project may request submission of the SF 255 "Architect-Engineer and Related Services Questionnaire for Specific Project" in accord with applicable civilian and military procurement regulations and shall evaluate such submissions, as well as related information contained on the Standard Form 254, and any other performance data on file with the agency, and shall select firms for subsequent discussions leading to contract award in conformance with Public Law 92-582. This form should only be filed by an architect-engineer or related services firm when requested to do so by the agency or by a public announcement. Responses should be as complete and accurate as possible, contain data relative to the specific project for which you wish to be considered, and should be provided, by the required due date, to the office specified in the request or public announcement.

This form will be used only for the specified project. Do not refer to this submittal in response to other requests or public announcements.

Definitions:

"Architect-Engineer Services" are defined in Part 36 of the Federal Acquisition Regulation.

"Principals" are those individuals in a firm who possess legal responsibility for its management. They may be owners, partners, corporate officers, associates, administrators, etc.

"Discipline," as used in this questionnaire, refers to the primary technological capability of individuals in the responding firm. Possession of an academic degree, professional registration, certification, or extensive experience in a particular field of practice normally reflects an individual's primary technical discipline.

"Joint Venture" is a collaborative undertaking by two or more firms or individuals for which the participants are both jointly and individually responsible.

"Key Persons, Specialists, and Individual Consultants," as used in this questionnaire, refer to individuals who will have major project responsibility or will provide **unusual or unique** capabilities for the project under consideration.

Instructions for Filing (Numbers below correspond to numbers contained in form):

1. Give name and location of the project for which this form is being submitted.

2. Provide appropriate data from the *Commerce Business Daily* (CBD) identifying the particular project for which this form is being filed.

   2a. Give the date of the *Commerce Business Daily* in which the project announcement appeared, or indicate "not applicable" (N/A) if the source of the announcement is other than the CBD.

   2b. Indicate Agency identification or contract number as provided in the CBD announcement.

3. Show name and address of the individual or firm (or joint venture) which is submitting this form for the project.

   3a. List the name, title, and telephone number of that principal who will serve as the point of contact. Such an individual must be empowered to speak for the firm on policy and contractual matters and should be familiar with the programs and procedures of the agency to which this form is directed.

   3b. Give the address of the specific office which will have responsibility for performing the announced work.

4. Insert the number of consultant personnel by discipline proposed for subject project on line (A). Insert the number of in-house personnel by discipline proposed for subject project on line (B). While some personnel may be qualified in several disciplines, each person should be counted only once in accord with his or her primary function. Include clerical personnel as "administrative." Write in any additional disciplines -- sociologists, biologists, etc. -- and number of people in each, in blank spaces

5. Answer only if this form is being submitted by a joint venture of two or more collaborating firms. Show the names and addresses of all individuals or organizations expected to be included as part of the joint venture and describe their particular areas of anticipated responsibility (i.e., technical disciplines, administration, financial, sociological, environmental, etc.).

   5a. Indicate, by checking the appropriate box, whether this particular joint venture has worked together on other projects.

Each firm participating in the joint venture should have a Standard Form 254 on file with the contracting office receiving this form. Firms which do not have such forms on file should provide same immediately along with a notation at the top of page 1 of the form regarding their association with this joint venture submittal.

STANDARD FORM (SF) 255

Architect-Engineer and Related Services Questionnaire for Specific Project

Standard Form 255
General Services Administration
Washington, D.C. 20405

6. If respondent is not a joint venture, but intends to use outside (as opposed to in-house or permanently and formally affiliated) consultants or associates, he should provide names and addresses of all such individuals or firms, as well as their particular areas of technical/professional expertise, as it relates to this project. Existence of previous working relationships should be noted. If more than eight outside consultants or associates are anticipated, attach an additional sheet containing requested information.

7. Regardless of whether respondent is a joint venture or an independent firm, provide brief resumes of key personnel expected to participate on this project. Care should be taken to limit resumes to only those personnel and specialists who will have major project responsibilities. Each resume must include: (a) name of each key person and specialist and his or her title, (b) the project assignment or role which that person will be expected to fulfill in connection with this project, (c) the name of the firm or organization, if any, with whom that individual is presently associated, (d) years of relevant experience with present firm and other firms, (e) the highest academic degree achieved and the discipline covered (if more than one highest degree, such as two Ph.D.'s, list both), the year received and the particular technical/professional discipline which that individual will bring to the project, (f) if registered as an architect, engineer, surveyor, etc., show only the field of registration and the year that such registration was first acquired. If registered in several states, do not list states, and (g) a synopsis of experience, training, or other qualities which reflect individual's potential contribution to this project. Include such data as: familiarity with Government or agency procedures, similar type of work performed in the past, management abilities, familiarity with the geographic area, relevant foreign language capabilities, etc. Please limit synopsis of experience to directly relevant information.

8. List up to ten projects which demonstrate the firm's or joint venture's competence to perform work similar to that likely to be required on this project. The more recent such projects, the better. Prime consideration will be given to projects which illustrate respondent's capability for performing work similar to that being sought. Required information must include: (a) name and location of project, (b) brief description of type and extent of services provided for each project (submissions by joint ventures should indicate which member of the joint venture was the prime on that particular project and what role it played), (c) name and address of the owner of that project (if Government agency, indicate responsible office), and name and phone number of individual to contact for reference (preferably the project manager), (d) completion date (actual when available, otherwise estimated), (e) total construction cost of completed project (or where no construction was involved, the approximate cost of your work) and that portion of the cost of the project for which the named firm was/is responsible.

9. List only those projects which the A-E firm or joint venture, or members of the joint venture, are currently performing under direct contract with an agency or department of the Federal Government. Exclude any grant or loan projects being financed by the Federal Government but being performed under contract to other non-Federal Governmental entities. Information provided under each heading is similar to that requested in the preceding Item 8, except for (d) "Percent Complete." Indicate in this item the percentage of A-E work completed upon filing this form.

10. Through narrative discussion, show reason why the firm or joint venture submitting this questionnaire believes it is especially qualified to undertake the project. Information provided should include, but not be limited to, such data as: specialized equipment available for this work, any awards or recognition received by a firm or individuals for similar work, required security clearances, special approaches or concepts developed by the firm relevant to this project, etc. Respondents may say anything they wish in support of their qualifications. When appropriate, respondents may supplement this proposal with graphic material and photographs which best demonstrate design capabilities of the team proposed for this project.

11. Completed forms should be signed by the chief executive officer of the joint venture (thereby attesting to the concurrence and commitment of all members of the joint venture), or by the architect-engineer principal responsible for the conduct of the work in the event it is awarded to the organization submitting this form. Joint ventures selected for subsequent discussions regarding this project must make available a statement of participation signed by a principal of each member of the joint venture. ALL INFORMATION CONTAINED IN THE FORM SHOULD BE CURRENT AND FACTUAL.

STANDARD FORM (SF) 255 Architect-Engineer and Related Services Questionnaire for Specific Project	1. Project Name/Location for which Firm is Filing:	2a. *Commerce Business Daily* Announcement Date, if any:	2b. Agency Identification Number, if any:

3. Firm (or Joint-Venture) Name & Address	3a. Name, Title & Telephone Number of Principal to Contact
	3b. Address of office to perform work, if different from Item 3

4. Personnel by Discipline: (List each person only once, by primary function.) Enter proposed consultant personnel to be utilized on this project on line (A) and In-house personnel on line (B).

(A)	(B)	Administrative	(A)	(B)	Electrical Engineers	(A)	(B)	Oceanographers	(A)	(B)					
(A)	(B)	Architects	(A)	(B)	Estimators	(A)	(B)	Planners Urban/Regional	(A)	(B)					
(A)	(B)	Chemical Engineers	(A)	(B)	Geologists	(A)	(B)	Sanitary Engineers	(A)	(B)					
(A)	(B)	Civil Engineers	(A)	(B)	Hydrologists	(A)	(B)	Soils Engineers	(A)	(B)					
(A)	(B)	Construction Inspectors	(A)	(B)	Interior Designers	(A)	(B)	Specification Writers	(A)	(B)					
(A)	(B)	Draftsmen	(A)	(B)	Landscape Architects	(A)	(B)	Structural Engineers	(A)	(B)					
(A)	(B)	Ecologists	(A)	(B)	Mechanical Engineers	(A)	(B)	Surveyors	(A)	(B)					
(A)	(B)	Economists	(A)	(B)	Mining Engineers	(A)	(B)	Transportation Engineers	(A)	(B)	Total Personnel				

5. If submittal is by JOINT-VENTURE list participating firms and outline specific areas of responsibility (including administrative, technical and financial) for each firm: (Attach SF 254 for each if not on file with Procuring Office.)

5a. Has this Joint-Venture previously worked together? ☐ Yes ☐ No

STANDARD FORM 255 PAGE 3 (REV 11-92

6. If respondent is not a joint-venture, list outside key Consultants/Associates anticipated for this project (Attach SF 254 for Consultants/Associates listed, if not already on file with the Contracting Office).

Name & Address	Specialty	Worked with Prime before (Yes or No)
1)		
2)		
3)		
4)		
5)		
6)		
7)		
8)		

STANDARD FORM 255 PAGE 4 (REV. 11-92

7. Brief resume of key persons, specialists, and individual consultants anticipated for this project.	
a. Name & Title:	a. Name & Title:
b. Project Assignment.	b. Project Assignment:
c. Name of Firm with which associated:	c. Name of Firm with which associated:
d. Years experience: With This Firm..... With Other Firms.....	d. Years experience: With This Firm..... With Other Firms.....
e. Education: Degree(s)/Year/Specialization	e. Education: Degree(s)/Year/Specialization
f. Active Registration: Year First Registered/Discipline	f. Active Registration: Year First Registered/Discipline
g. Other Experience and Qualifications relevant to the proposed project:	g. Other Experience and Qualifications relevant to the proposed project:

STANDARD FORM 255 PAGE 5 (REV. 11-92

7. Brief resume of key persons, specialists, and individual consultants anticipated for this project.	
a. Name & Title:	a. Name & Title:
b. Project Assignment:	b. Project Assignment:
c. Name of Firm with which associated:	c. Name of Firm with which associated:
d. Years experience: With This Firm..... With Other Firms.....	d. Years experience: With This Firm..... With Other Firms.....
e. Education: Degree(s)/Year/Specialization	e. Education: Degree(s)/Year/Specialization
f. Active Registration: Year First Registered/Discipline	f. Active Registration: Year First Registered/Discipline
g. Other Experience and Qualifications relevant to the proposed project:	g. Other Experience and Qualifications relevant to the proposed project:

7. Brief resume of key persons, specialists, and individual consultants anticipated for this project.	
a. Name & Title:	a. Name & Title:
b. Project Assignment:	b. Project Assignment:
c. Name of Firm with which associated:	c. Name of Firm with which associated:
d. Years experience: With This Firm..... With Other Firms.....	d. Years experience: With This Firm..... With Other Firms.....
e. Education: Degree(s)/Year/Specialization	e. Education: Degree(s)/Year/Specialization
f. Active Registration: Year First Registered/Discipline	f. Active Registration: Year First Registered/Discipline
g. Other Experience and Qualifications relevant to the proposed project:	g. Other Experience and Qualifications relevant to the proposed project:

STANDARD FORM 255 PAGE 7 (REV. 11-92)

7. Brief resume of key persons, specialists, and individual consultants anticipated for this project.	
a. Name & Title:	a. Name & Title:
b. Project Assignment:	b. Project Assignment:
c. Name of Firm with which associated:	c. Name of Firm with which associated:
d. Years experience: With This Firm..... With Other Firms.....	d. Years experience: With This Firm..... With Other Firms.....
e. Education: Degree(s)/Year/Specialization	e. Education: Degree(s)/Year/Specialization
f. Active Registration: Year First Registered/Discipline	f. Active Registration: Year First Registered/Discipline
g. Other Experience and Qualifications relevant to the proposed project:	g. Other Experience and Qualifications relevant to the proposed project:

STANDARD FORM 255 PAGE 8 (REV 11-92)

8. Work by firms or joint-venture members which best illustrates current qualifications relevant to this project (list not more than 10 projects).					
a. Project Name & Location	b. Nature of Firm's Responsibility	c. Project Owner's Name & Address and Project Manager's Name & Phone Number	d. Completion Date (actual or estimated)	e. Estimated Cost (In Thousands)	
				Entire Project	Work For Which Firm Was/Is Responsible
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9)					
(10)					

STANDARD FORM 255 PAGE 9 (REV. 11-92)

9. All work by firms or joint-venture members currently being performed directly for Federal agencies.					
a. Project Name & Location	b. Nature of Firm's Responsibility	c. Agency (Responsible Office) Name and Address and Project Manager's Name & Phone Number	d. Percent Complete	e. Estimated Cost (In Thousands)	
				Entire Project	Work For Which Firm Is Responsible

STANDARD FORM 255 PAGE 10 (REV. 11-92)

10. Use this space to provide any additional information or description of resources (including any computer design capabilities) supporting your firm's qualifications for the proposed project.

11. The foregoing is a statement of facts.

Signature: _____ Typed Name and Title: _____

Date:

*U.S. GPO: 1993-351-344

PROCUREMENT INTEGRITY CERTIFICATION FOR PROCUREMENT OFFICIALS

As a condition of serving as a procurement official, I, _____, hereby certify that
(Insert typed or printed name)

I am familiar with the provisions of subsections 27(b), (c), and (e) of the Office of Federal Procurement Policy Act (41 USC 423) as amended by section 814 of Public Law 101-189. I further certify that I will not engage in any conduct prohibited by such subsections and will report immediately to the contracting officer any information concerning a violation or possible violation of subsection 27(a), (b), (d), or (f) of the Act and applicable implementing regulations. A written explanation of subsections 27(a) through (f) has been made available to me. I understand that, should I leave the Government during the conduct of a procurement for which I have served as a procurement official, I have a continuing obligation under section 27 not to disclose proprietary or source selection information relating to that procurement and a requirement to so certify.

SIGNATURE OF PROCUREMENT OFFICIAL	DATE
DEPARTMENT OR AGENCY	OFFICE TELEPHONE NUMBER

This form is authorized for use and local reproduction

Optional Form 333 (10/92)
Prescribed by GSA - FAR 48 CFR 53.203(b)

NAME OF PROCUREMENT OFFICIAL _____ SOCIAL SECURITY NUMBER _____

PRIVACY ACT NOTICE TO EMPLOYEES AND OFFICIALS

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), the following notice is provided:

AUTHORITY FOR COLLECTION OF INFORMATION: 41 U.S.C. 423 and Executive Order 9397.

Your signature on the Optional Form 333, Procurement Integrity Certification for Procurement Officials, and disclosure of your Social Security Number on this page are voluntary, but possible effects upon you if the certification is not signed and the Social Security Number is not provided include the following:

Disqualification from particular work or duty assignments, or from the position for which you have applied or which you currently hold, or other appropriate action, or administrative delay in processing your certification.

PRINCIPAL PURPOSE FOR COLLECTION OF THIS INFORMATION:

To obtain and maintain a completed certification from any person designated as a "Procurement official" as defined by 41 U.S.C. 423 and applicable procurement regulations.

ROUTINE USES WHICH MAY BE MADE OF THE COLLECTED INFORMATION:

Transfers to Federal, state, local, or foreign agencies when relevant to civil, criminal, administrative, or regulatory investigations or proceedings, including transfer to the Office of Government Ethics in connection with its program oversight responsibilities, or pursuant to a request by any appropriate Federal agency in connection with hiring, retention, or grievance of an employee or applicant, the issuance of a security clearance, the award or administration of a contract, the issuance of a license, grant, or other benefit, to committees of the Congress, or any other use specified by the Office of Personnel Management (OPM) in the system of records entitled "OPM/GOVT-1, General Personnel Records," as published in the *Federal Register* periodically by OPM.

OPTIONAL FORM (REV. 10/92) 333 BACK

[FR Doc. 94-4401 Filed 3-9-94; 8:45 am]
BILLING CODE 6820-34-C

federal register

Thursday
March 10, 1994

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

List of Approved OMB Clearance Requests With Extended Expiration Dates; Notice

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

List of Approved OMB Clearance Requests With Extended Expiration Dates

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of approved information collection requests and current expiration dates.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has obtained Office of Management and Budget (OMB) clearance of information collection requirements contained in the FAR. In lieu of reissuing Standard and Optional Forms to reflect extended OMB approval dates, and to reduce costs of reprinting forms, we are publishing this document to give notice of all information collection requests and their current expiration dates. FAR users should make appropriate pen-and-ink changes on any listed forms containing expiration dates that differ from the dates published in this notice.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, FAR Secretariat, General Services Administration, (202) 501–4755.

OBTAINING COPIES: Interested parties may obtain copies of this document or OMB application packages from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite the OMB control number and associated FAR case number in all requests for OMB clearance packages.

TABLE OF STANDARD FORMS AND OMB EXPIRATION DATES

Standard form	Edition	OMB control number	Expiration date
1. SF–24	Rev. 1/90	9000–0045	9/30/95
2. SF–25	Rev. 1/90	9000–0045	9/30/95
3. SF–25A	Rev. 1/90	9000–0045	9/30/95
4. SF–25B	Rev. 10/83	9000–0045	9/30/95
5. SF–28	Rev. 1/90	9000–0001	10/31/95
6. SF–34	Rev. 1/90	9000–0045	9/30/95
7. SF–35	Rev. 1/90	9000–0045	9/30/95
8. SF–119	Rev. 1/90	9000–0003	9/30/95
9. SF–129	Rev. 6/90	9000–0002	10/31/94
10. SF–254	Rev. 11/92	9000–0004	3/31/96
11. SF–255	Rev. 11/92	9000–0005	3/31/96
12. SF–273	Rev. 8/90	9000–0045	9/30/95
13. SF–274	Rev. 8/90	9000–0045	9/30/95
14. SF–275	Rev. 8/90	9000–0045	9/30/95
15. SF–294	Rev. 1/90	9000–0006	9/30/95
16. SF–295	Rev. 1/90	9000–0007	9/30/95
17. SF–1403	Rev. 9/88	9000–0011	10/31/94
18. SF–1404	Rev. 9/88	9000–0011	10/31/94
19. SF–1405	Rev. 9/88	9000–0011	10/31/94
20. SF–1406	Rev. 9/88	9000–0011	10/31/94
21. SF–1407	Rev. 9/88	9000–0011	10/31/94
22. SF–1408	Rev. 9/88	9000–0011	10/31/94
23. SF–1411	Rev. 7/87	9000–0013	3/31/96
24. SF–1412	Rev. 4/93	9000–0013	3/31/96
25. SF–1412A	Rev. 4/93	9000–0013	3/31/96
26. SF–1413	Rev. 6/89	9000–0014	3/31/95
27. SF–1416	Rev. 1/90	9000–0045	9/30/95
28. SF–1417	Rev. 8/90	9000–0037	1/31/96
29. SF–1423	Rev. 12/88	9000–0015	4/30/95
30. SF–1424	Rev. 7/89	9000–0015	4/30/95
31. SF–1426	Rev. 7/89	9000–0015	4/30/95
32. SF–1427	Rev. 7/89	9000–0015	4/30/95
33. SF–1428	Rev. 7/89	9000–0015	4/30/95
34. SF–1429	Rev. 7/89	9000–0015	4/30/95
35. SF–1430	Rev. 7/89	9000–0015	4/30/95
36. SF–1431	Rev. 7/89	9000–0015	4/30/95
37. SF–1432	Rev. 7/89	9000–0015	4/30/95
38. SF–1433	Rev. 7/89	9000–0015	4/30/95
39. SF–1434	Rev. 7/89	9000–0015	4/30/95
40. SF–1435	Rev. 7/89	9000–0012	5/31/95
41. SF–1436	Rev. 7/89	9000–0012	5/31/95
42. SF–1437	Rev. 7/89	9000–0012	5/31/95
43. SF–1438	Rev. 7/89	9000–0012	5/31/95
44. SF–1439	Rev. 7/89	9000–0012	5/31/95
45. SF–1440	Rev. 7/89	9000–0012	5/31/95
46. SF–1443	Rev. 10/82	9000–0010	8/31/96
47. SF–1444	Rev. 10/87	9000–0089	2/28/96
48. SF–1445	Rev. 10/87	9000–0089	2/28/96
49. SF–1446	Rev. 10/87	9000–0089	2/28/96

Dated: February 22, 1994.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy, General Services Administration.

[FR Doc. 94–4380 Filed 3–9–94; 8:45 am]

BILLING CODE 6820–34–M

federal register

Thursday
March 10, 1994

Part IV

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved addendum to Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gaming on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved the Pari-Mutuel Racing Addendum to the Gaming Compact Between the Three Affiliated Tribes and the State of North Dakota, which was executed on April 14, 1993.

DATES: This action is effective March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: March 1, 1994.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 94–5465 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–02–P

federal register

Thursday
March 10, 1994

Part V

Department of the Interior

Bureau of Indian Affairs

White Mountain Apache Indian Reservation, AZ; Environmental Impact Statement; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

White Mountain Apache Indian Reservation, AZ; Environmental Impact Statement

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Bureau of Indian Affairs (BIA) is issuing this notice to advise the public that it intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the construction of a proposed water development project on the White Mountain Apache Indian Reservation in Navajo County located in east central Arizona. The BIA originally published a Notice of Intent in the November 30, 1987, **Federal Register** and held public scoping meetings on December 15, 1987, in Whiteriver, Arizona and December 16, 1987, in Phoenix, Arizona. The National Environmental Policy Act (NEPA) compliance process has been held in abeyance since that time to allow for additional planning and information gathering. It is now determined that it is appropriate to resume that process.

This notice is being furnished as required by the NEPA regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of the issues to be addressed in the EIS. Comments and participation in this scooping process are solicited.

DATES: Written comments should be received by March 30, 1994. Scoping meetings to identify issues and alternatives to be evaluated in the EIS will be held on March 30, 1994, at the White Mountain Apache Tribal Headquarters, Hwy 73, Whiteriver, Arizona at 7 p.m. The second scoping meeting is scheduled for March 31, 1994, at the Holiday Inn Crown Plaza, Adams and Central Avenue (downtown), Phoenix, Arizona at 7 p.m. Oral and written comments along with participation by the public in the scoping process is encouraged and should be directed to the addresses provided below.

ADDRESSES: Comments should be addressed to Mr. Walter Mills, Phoenix Area Director, Bureau of Indian Affairs, P.O. Box 10, Phoenix, Arizona 85001 and/or Mr. Ben Nuvamsa, Superintendent, Bureau of Indian Affairs, Fort Apache Agency, P.O. Box 560, Whiteriver, Arizona 85941.

FOR FURTHER INFORMATION CONTACT: Ms. Amy L. Heuslein, Environmental Protection Officer, Bureau of Indian Affairs, Phoenix Area Office, Environmental Quality Services, P.O. Box 10, Phoenix, Arizona 85001, Telephone (602) 379–6750 or Mr. Dennis Jones, Land Operations Officer, BIA Fort Apache Agency, P.O. Box 560, Whiteriver, Arizona 85941, Telephone (602) 338–5378.

SUPPLEMENTARY INFORMATION: The Bureau of Indian Affairs in cooperation with the White Mountain Apache Tribe will prepare an Environmental Impact Statement on a proposed water development project located on the Fort Apache Indian Reservation in Arizona. The proposed action involves the construction and operation of the proposed Miner Flat Dam Project and associated facilities on the White River in the Salt River Drainage system. Alternative structures and locations will be analyzed. The need for the proposed project is to expand an irrigation system for agriculture development, recreational benefits and hydropower production for residential, community, and industrial purposes on the reservation.

Significant issues to be addressed during the scoping process include: Biotic (threatened and endangered species); archeological, cultural and historical sites; socioeconomic conditions; visual and land use; resource use patterns; air and water quality. Potential environmental impacts that may result from the proposal are: Cultural, biological and water resources.

This notice is published pursuant to § 1501.7 of the Council of Environmental Quality regulations (40 CFR parts 1500–1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et. seq.) and the Department of the Interior Manual (516 DM 1–6).

Dated: March 3, 1994.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 94–5484 Filed 3–9–94; 8:45 am]

BILLING CODE 4310–02–P

federal register

Thursday
March 10, 1994

Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Public Housing Drug Elimination; Technical Assistance Program; Notice of Funding Availability for Fiscal Year 1994

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–94–3710; FR–3636–N–01]

Public Housing Drug Elimination; Technical Assistance Program; Notice of Funding Availability for FY 1994

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Public Housing Drug Elimination Technical Assistance Program Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1994.

SUMMARY: This NOFA announces the FY 1994 availability of $1,255,175 to fund qualified applicants selected under the FY 1993 NOFA and to invite additional applicants. The purpose of this program is to provide short-term technical assistance to public housing agencies (PHAs), Indian housing authorities (IHAs), resident management corporations (RMCs), and incorporated resident councils (RCs) that are combating abuse of controlled substances in public and Indian housing communities. These funds reimburse consultants who provide expert advice and work with housing authorities or resident councils to assist them in gaining skills and training to eliminate drug abuse and related problems from public housing communities. In the body of this document is information concerning the purpose of the NOFA, applicant eligibility, selection criteria, eligible and ineligible activities, application processing, consultant eligibility, and consultant application processing.

DATES: This NOFA is effective upon publication. Technical assistance applications and consultant application kits may be immediately submitted to the address specified in the Application Kit. There is no application submission deadline for short-term technical assistance funds available under this NOFA. Technical assistance applications will be reviewed on a continuing basis, until funds available under this NOFA are expended.

ADDRESSES: (a) An application kit may be obtained from the local HUD Field Office with jurisdiction or by calling HUD's Drug Information and Strategy Clearinghouse on 1–800–578–3472. The application kit contains information on all exhibits and requirements of this NOFA.

(b) An applicant must submit the application to the address specified in the application kit.

(c) In addition, applicants must simultaneously forward a copy of these documents to the HUD Field Office or Office of Native American Programs (ONAP) with jurisdiction over the relevant housing authority. The HUD Field Office copy must be addressed to Director, Public Housing Division, or Administrator, Office of Native American Programs.

FOR FURTHER INFORMATION CONTACT: Elizabeth Cocke, Drug Free Neighborhoods Division (DFND), Department of Housing and Urban Development, 451 Seventh Street, SW., room 4116, Washington, DC 20410, telephone (202) 708–1197. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0133.

I. Purpose and Substantive Description

(a) Authority

Funds for both training and this technical assistance (TA) program have been appropriated by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994, (approved October 28, 1993, Pub. L. 103–124), (94 App. Act).

The TA program is intended to provide immediate, short-term (90 days for completion) training, recommendations and assistance to assess needs, train staff and residents, identify and design appropriate anti-drug strategies, and generally prepare and educate public housing and resident organization staff and residents to address problems related to the abuse of controlled substances in public housing communities. Housing authorities and eligible resident organizations with or without a drug elimination grant in their communities are encouraged to use this resource. Technical assistance is not intended for program implementation or the financial support of existing programs.

(b) Allocation Amounts

A total of $1,000,000 in FY 1994 funds is being made available under this NOFA. In addition, $255,175 in FY 1993 recoveries is available under this NOFA, for a combined total of $1,255,175. Of this amount, approximately $340,000 will be use for applicants who received sufficient points for funding under the FY 1993 NOFA after FY 1993 funds were exhausted. The remaining amount, approximately $660,000, is available for new applications for short-term technical assistance of up to $10,000 per request.

(c) Eligibility

The following is a listing of eligible applicants, eligible consultants, eligible activities, ineligible activities, and general program requirements under this NOFA.

(1) Eligible Applicants

(i) Public housing agencies (PHAs), Indian housing authorities (IHAs), incorporated resident councils (RCs), resident organizations (ROs) in the case of IHAs, and resident management corporations (RMCs) are eligible to receive short-term technical assistance services under this NOFA.

(ii) An eligible RC or RO must be an incorporated nonprofit organization or association that meets each of the following requirements:

(A) It must be representative of the residents it purports to represent.

(B) It may represent residents in more than one development or in all of the developments of a PHA or IHA, but it must fairly represent residents from each development that it represents.

(C) It must adopt written procedures providing for the election of specific officers on a regular basis (but at least once every three years).

(D) It must have a democratically elected governing board. The voting membership of the board must consist of residents of the development or developments that the resident organization or resident council represent.

(iii) An eligible RMC must be an entity that proposes to enter into, or that enters into, a management contract with a PHA under 24 CFR part 964, or a management contract with an IHA. An RMC must have each of the following characteristics:

(A) It must be a nonprofit organization that is incorporated under the laws of the State or Indian tribe in which it is located.

(B) It may be established by more than one resident organization or resident council, so long as each such organization or council:

(1) Approves the establishment of the corporation; and

(2) Has representation on the Board of Directors of the corporation.

(C) It must have an elected Board of Directors.

(D) Its by-laws must require the Board of Directors to include representatives of each resident organization or resident council involved in establishing the corporation.

(E) Its voting members must be residents of the development or developments it manages.

(F) It must be approved by the resident council. If there is no council, a majority of the households of the development must approve the establishment of such an organization to determine the feasibility of establishing a corporation to manage the development.

(G) It may serve as both the resident management corporation and the resident council, so long as the corporation meets the requirements of 24 CFR part 964 for a resident council. (In the case of a resident management corporation for an Indian Housing Authority, it may serve as both the RMC and the RO, so long as the corporation meets the requirements of this NOFA for a resident organization.)

(iv) Applicants are eligible to apply to receive technical assistance if they are already receiving technical assistance under this program, as long as the request creates no scheduling conflict with other TA requests from the same applicant.

(v) Applicants are eligible to apply to receive technical assistance whether or not they are already receiving drug elimination funds under the Public Housing Drug Elimination Program.

(vi) In circumstances determined by HUD to be drug-related and to require immediate attention, eligible parties may receive technical assistance initiated and approved by HUD. These circumstances may include, for example, pervasive violence, disputes among tenants, and disputes between tenants and management. HUD will use the procedures of this NOFA to select a consultant in these cases.

(2) Eligible Consultants

Consultants who want to provide short-term technical assistance services under this NOFA must be listed in the Consultant Database approved by HUD's Drug Free Neighborhoods Division (DFND). To be included in that database, consultants must complete, in accordance with the requirements of section I.(c)(2)(ii), below, of this NOFA, a consultant application packet available from the Drug Information and Strategy Clearinghouse at 1–800–578–3472 and submit the packet to the address specified in the application kit. (This is a toll-free number.)

(i) Consultant eligibility. HUD is seeking individuals or entities who have experience working with public or Indian housing, or other low-income populations to provide short-term technical assistance under this NOFA. Consultants who have previously been deemed eligible and are part of the TA Consultant Database need not reapply. To qualify as eligible consultants, individuals or entities should have experience in one or more of the following general areas:

(A) PHA/IHA-related experience: Agency organization and management; facility operations; program development; experience working with residents and community organizations.

(B) Drug-related experience: Prevention/intervention programs; enforcement strategies; alternative programs.

(C) HUD especially encourages PHAs, IHAs, PHA/IHA employees, RMCs, incorporated resident councils and resident organizations, and public and Indian housing residents, with experience in the above areas, to submit a consultant application for eligibility under this NOFA. Eligible consultants will be entered into the Consultant Database for possible recommendation to Technical Assistance applicants.

(ii) Applying to be a consultant. Individuals or entities interested in being listed in the TA Consultant Database should prepare their applications and send them to the address specified in the application kit. Before they can be entered into the Consultant Database, consultants must submit an application that includes the following information:

(A) The Consultant Resource Inventory Questionnaire, including three references;

(B) A resume;

(C) A narrative statement regarding the consultant's experience in the specific skills identified on the Resource Inventory Questionnaire, and outlining the consultant's overall approach;

(D) Evidence submitted by the consultant to HUD that documents the standard daily fee previously paid to the consultant for technical assistance services similar to those requested under this NOFA. This evidence can include an accountant's statement, W–2 Wage Statements, or invoices, and should be supplemented with a statement or other evidence of days worked in the course of the particular project (for an invoice) or for a tax year in the case of a W–2 Statement.

(iii) Consultant payment. HUD will determine a specific fee to pay a consultant under this NOFA, subject to a maximum cap of the daily equivalent of the maximum rate paid for ES–IV of the Executive Schedule for Federal White-Collar Workers, based upon the evidence submitted in section I.(c)(2)(D), above, of this NOFA.

(iv) Conflicts of interest. In addition to the conflict of interest requirements in 24 CFR part 85:

(A) No person who is an employee, agent, officer, or appointed official of the applicant may be funded as a consultant to the applicant by this Drug Elimination Technical Assistance program.

(B) Consultants who wish to provide Drug Elimination Technical Assistance services through this program may not have any involvement in the preparation or submission of the TA proposal which requests their services. Any involvement of the consultant will be considered a conflict of interest, which makes the consultant ineligible for providing consulting services to the applicant, and could disqualify the consultant from future consideration.

(3) Eligible Activities

To assist the eligible applicants identified in section I.(c)(1), above, of this NOFA, in responding immediately to drug-related problems in public and Indian housing developments, the U.S. Department of Housing and Urban Development (HUD) has supplemented the Public Housing Drug Elimination Program (PHDEP) and Youth Sports Program (YSP) with funds for short-term technical assistance (TA). Short-term technical assistance means that consultants shall only be reimbursed for a maximum of 30 days of work, which must be completed in less than 90 days from the date of the approved statement of work. The TA program is intended to provide short-term, immediate assistance to PHAs, IHAs, RMCs, RCs and ROs developing and/or implementing their drug elimination strategies. The program will fund the use of consultants who can provide the necessary consultation and/or training for the types of activities outlined below, or to fund the use of consultants who will assist the applicant in undertaking a task such as program planning and development for future drug elimination strategies, or conducting a needs assessment or survey. To assist housing authorities and resident councils, the TA program funds efforts in:

(i) Assessing drug problems in public or Indian housing development(s) and surrounding community(ies);

(ii) Designing and identifying appropriate anti-drug-related practices and programs in the following areas:

(A) Law enforcement strategies, including resident security patrols;

(B) Management techniques;

(C) Youth initiatives;
(D) Family management/parenting;
(E) Resident intervention and assistance programs;
(F) Community organization and leadership development; and
(G) Other areas that meet the drug elimination purposes of this NOFA, as determined by HUD.

(iii) Training for housing authority staff and residents in anti-drug practices, programs and management;

(iv) Improving overall agency management, operations and programming so that the applicant can more effectively respond to drug problems in the targeted public housing development(s).

(4) Ineligible Activities

(i) Funding is not permitted for any type of monetary compensation for residents unless they are listed in the TA Consultant Database and are working as consultants.

(ii) Funding is not permitted for any activity that is funded under any other HUD program.

(iii) Funding is not permitted for salary or fees to staff of the applicant, or former staff of the applicant within a year of his or her leaving the housing authority or resident organization.

(iv) Funding is not permitted for underwriting conferences.

(v) Funding is not permitted for conference speakers unless the speaker will also be providing additional TA as outlined in the eligible activities in sections (c)(3)(i–ii) of this NOFA.

(vi) Funding is not permitted for program implementation, proposal writing, the purchase of hardware or equipment, or any activities deemed ineligible in the Drug Elimination Program, excluding consultant's fees.

(5) General Program Requirements

(i) Applications for short-term technical assistance may be funded up to $10,000 per request, with HUD providing payment directly to the authorized consultant for the consultant's fee, travel, room and board, and other approved costs.

(ii) Applicants that have not previously received technical assistance under this program may submit only one application initially. After the applicant's initial technical assistance report has been received and reviewed by HUD or the contractor administering the program, as appropriate, the applicant may submit multiple applications.

(d) Selection Criteria/Ranking Factors

An application must include the minimum required elements listed at section III.(a) of this NOFA, and cannot request assistance for ineligible activities as listed in I.(c)(4)(iv), and will be scored according to the criteria outlined below:

(1) The extent to which the applicant needs short-term technical assistance. This will be measured by the applicant's discussion of the problems that triggered the request for assistance under this NOFA. (Maximum points: 10)

(2) The extent to which the applicant clearly describes the kind of technical assistance and skills needed to address the problems, and how well the technical assistance requested will address the problems. (Maximum points: 10)

(3) The likelihood that the requested technical assistance will assist the applicant's current drug elimination strategy, as described in the application; or, if the applicant does not currently have a strategy, the extent to which the technical assistance will help them develop a drug elimination strategy. (Maximum points: 10)

(e) Application Review, Awards, and Payment

(1) Application Review

Applications will be reviewed as they are received, and will be time- and date-stamped to determine their order of receipt. An application must include both the descriptive letter (or form provided in the application kit) and certification statement (or form provided in the application kit) to be eligible for funding. All applications that qualify on the basis of the minimum required elements will be scored on the basis of the selection criteria in section I.(d) of this NOFA. Applications that receive a total of 15 or more points, with no less than 3 points in any of the three selection criteria in section I.(d) of this NOFA will be eligible for funding. Eligible applications will be funded in the order in which negotiations for a statement of work are completed between the consultant and the program administrator until all funds are expended. The basis for each funding decision under this section will be documented.

(2) Application Awards

(i) If the application includes the descriptive letter (or forms) requesting eligible activities, the certification statement (or form), and at least 15 points as described in section I.(e)(1) of this NOFA, it is eligible for funding. If sufficient funds are available to fund the technical assistance request, staff will confer with the applicant to confirm the work requirements. The TA Consultant Database will be searched to choose at least three consultants who (1) have a principal place of business or residence located within a reasonable distance from the applicant, as determined by HUD or its agent, or (2) appear to have the requisite knowledge and skills to assist the applicant in addressing its needs. The applicant's preference for a consultant will be taken into account. An HA employee may not serve as a consultant to his or her employer. An HA employee who serves as a consultant must be on annual leave to receive the consultant fee. A list of the suggested consultants will be forwarded to the applicant. From this list, the applicant will recommend the consultant to provide the requested TA. Instructions for consultants to be included in the TA Consultant Database are outlined above in section I.(b)(2) of this NOFA.

(ii) The applicant must contact each TA consultant from the list provided. After making contact with each consultant, the applicant must send a written justification to HUD with a list of the consultants in order of preference, indicating any that are unacceptable, and state the reasons for its preference. There is no guarantee that the applicant's first preference will be approved. Consultants will only be approved for the TA if the request is not in conflict with other requests for the consultant's services.

(iii) Staff designated by HUD will work with the consultant and applicant to develop a statement of work that includes a timeline and estimated budget. The statement of work should also include a discussion of the kind of technical assistance and skills needed to address the problem, and how the technical assistance requested will address these needs; a description of the current drug elimination strategy, and a discussion of how the requested technical assistance will assist that strategy. If the applicant does not currently have a strategy, there should be a statement of how the technical assistance will help them develop a drug elimination strategy. When the statement of work is approved, the consultant will be authorized to start work. The consultant must receive written authorization from HUD or its authorized agent before he or she can begin to provide technical assistance under this NOFA. The applicant and the relevant Field Office or Office of Native American Programs will also be notified. Because this program is for short-term technical assistance, consultants shall only be reimbursed for

a maximum of 30 days of work, which must be completed in fewer than 90 days from the date of the approved statement of work.

(3) Payment for TA Consultants

The consultant must submit a report of its activities, findings and recommendations, a fee invoice, and its expenses and receipts to the address specified in the application kit. A copy of the report must also be submitted to the applicant. Required elements of these reports are outlined in the Guidelines for Consultants book, available from the Clearinghouse. After the report and expenses have been approved, and a verbal or written evaluation is received from the applicant, payment will be issued to the consultant. Evaluation forms are then sent to the applicant, to be completed and returned.

II. Application Process

(a) Application Kit. An application kit may be obtained from the local HUD FO or ONAP, or by calling HUD's Drug Information and Strategy Clearinghouse on 1–800–578–3472. The application kit contains information on all exhibits and requirements of this NOFA.

(b) Application Submission. This NOFA is effective upon publication. Short-term (90 days for completion) technical assistance applications and consultant application kits may be immediately submitted to the address specified in the application kit. There is no application submission deadline for the short-term technical assistance grants available under this NOFA. Technical assistance applications will be reviewed on a continuing first-come, first-serve basis, until funds under this NOFA are no longer available.

(1) An applicant must submit the application and the necessary assurances to the address specified in the Application Kit.

(2) In addition, applicants must simultaneously forward a copy of these documents to the HUD Field Office or Office of Native American Programs with jurisdiction over the relevant housing authority. The HUD Field Office copy must be addressed to Director, Division of Public Housing, or Administrator, Office of Native American Programs, as appropriate.

III. Checklist of Application Submission Requirements

Each application for a grant under this program must include the following:

(a) An application will not be considered for funding unless it includes, at a minimum, the following elements:

(1) An application letter, of no more than two pages, which responds to each of the selection criteria in section I.(d) of this NOFA, or the completed application forms available in the application kit, signed by the executive director of the housing authority or the authorized representative of the RMC or incorporated RC or RO, and;

(2) A certification statement, or the form provided in the application kit, signed by the executive director of the housing authority and the authorized representative of the RMC or incorporated RC or RO, certifying that any technical assistance received will be used in compliance with all requirements in the NOFA.

(b) HUD Form 2880

(c) If the applicant has a particular consultant to recommend to provide the technical assistance, the response should identify the consultant and the basis for the recommendation. A consultant recommended by an applicant is not guaranteed to be approved to provide the requested technical assistance. If the consultant recommended by an applicant is not listed in the Consultant Database approved by HUD's Drug Free Neighborhoods Division (DFND), the consultant must apply as outlined in section I.(c)(2), above, of this NOFA. These consultant applications to be included in the TA Consultant Database will be given expedited review by the Department. However, a consultant must be listed to be eligible for funding under this NOFA.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing, or by telephone, of any curable technical deficiencies, such as a missing signature in the application. A log of telephone notifications will be maintained. The applicant must correct the deficiency in accordance with the information specified in HUD's notification. The application will not be given further consideration until the deficiency is corrected.

(b) Curable technical deficiencies relate to items that are not necessary to make a determination of an applicant's eligibility. The items necessary for this determination are listed at section III.(a) of this NOFA, although missing signatures on the application letter, certification or forms are curable.

V. Other Matters

(a) Nondiscrimination and Equal Opportunity

The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3600–20 (Fair Housing Act) and implementing regulations issued at subchapter A of title 24 of the Code of Federal Regulations, as amended by 54 FR 3232 (published January 23, 1989); Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The Indian Civil Rights Act (ICRA) (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301–1303) provides, among other things, that "no Indian tribe in exercising powers of self-government shall * * * deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law." The Indian Civil Rights Act applies to any tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government. The ICRA is applicable in all cases where an IHA has been established by exercise of tribal powers of self-government.

(3) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(4) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR chapter 60;

(5) The requirements of section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects); and

(6) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(b) Use of Debarred, Suspended or Ineligible Contractors

Applicants for short-term technical assistance under this NOFA are subject to the provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts, or

funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

(c) Drug-Free Workplace Act of 1988

The requirements of the Drug-Free Workplace Act of 1988 at 24 CFR Part 24, subpart F.

(d) Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures proposed in this document are determined not to have the potential of having a significant impact on the quality of the human environment, and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act of 1969. Accordingly, a Finding of No Significant Impact is not required.

(e) Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA have the potential for a positive, although indirect, impact on family formation, maintenance and general well-being within the meaning of the Order. The NOFA is designed to assist housing authorities and resident organizations in their public housing anti-drug-related efforts by providing short-term technical assistance. HUD expects that the provision of such assistance will better prepare and educate housing authority and resident organization officials to confront the widespread abuse of controlled substances in public housing communities. This, in turn, would, indirectly affect the quality of life for public housing residents.

(f) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have "federalism implications" within the meaning of the Order. The NOFA provides short-term technical assistance to housing authorities and resident organizations to assist them in their anti-drug efforts in public housing communities. The involvement of resident organizations should greatly increase the success of the anti-drug efforts under this technical assistance program and, therefore, should have positive effects on the target population. As such, the program helps housing authorities to combat serious drug problems in their communities.

(g) Documentation and Public Access Requirements; Applicant/Recipient Disclosures: HUD Reform Act

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Public notice. HUD will include recipients that receive assistance pursuant to this NOFA in its quarterly **Federal Register** notice of recipients of all HUD assistance awarded on a competitive basis. (See 24 CFR 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(h) Section 112 HUD Reform Act

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912) as 24 CFR part 86. If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Authority: Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (approved October 6, 1992, Pub. L. 102–389); Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1994, (approved October 28, 1993, Pub. L. 103–124).

Dated: March 2, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–5536 Filed 3–9–94; 8:45 am]

BILLING CODE 4210–13–P

federal register

Thursday
March 10, 1994

Part VII

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Funding Availability for Fiscal Year 1994 for Indian Applicants Under the HOME Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–94–3720; FR–3617–N–01]

Funding Availability (NOFA) for Fiscal Year 1994 for Indian Applicants Under the HOME Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year 1994 for Indian Applicants for HOME Investment Partnerships Act (the HOME Act) programs, referred to as the HOME program.

SUMMARY: This NOFA announces the availability of $12.75 million in funding for Fiscal Year (FY) 1994 for the HOME Program for Indian tribes; provides the selection criteria; provides information on how to apply; and explains how selections will be made. All eligible applicants are invited to submit applications for HOME funds in accordance with the requirements of this NOFA.

DATES: Applications must be received by the Office of Native American Programs (ONAP) having jurisdiction over the applicant on or before 4:30 p.m. (ONAP local time) on July 15, 1994. This application deadline is firm as to date and hour. The Department shall treat as ineligible for consideration any application that is received after the deadline. Applicants should make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Facsimile ("FAX") copies shall not be accepted.

FOR FURTHER INFORMATION CONTACT: Prospective applicants may contact the appropriate ONAP. Refer to Appendix 1 of this NOFA for a complete list of ONAPs and telephone numbers.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), the information collection requirements contained in these application procedures for HOME funds were reviewed by the Office of Management and Budget for the HOME interim rule and approved under OMB control number 2501–0013.

Changes From Last Year's NOFA

This year there are new forms for the Indian HOME Program. The forms are referenced in the NOFA and will be included in the Application Kit. Other changes from last year include a requirement that the project be ready to go (to be further developed in the Application Kit in the scoring of the evaluation criteria), and clarification of what is a correctable deficiency. Submissions may be for only one project per applicant. No project will receive funding in an amount greater than $1.5 million.

NOFA Outline

I. Purpose and Substantive Description.
(a) Authority.
(b) Allocation Amounts.
(c) Eligibility.
(d) Eligibility Requirements.
(e) Selection Criteria and Ranking Factors.
II. Application Process.
(a) Application Packages.
(b) Submittal of Complete Application.
(c) Application Due Date.
III. Checklist of Application Submission Requirements.
IV. Other Matters.
(a) Environment.
(b) Energy.
(c) Federalism Impact.
(d) Family Impact.
(e) Section 102 of the HUD Reform Act.
(f) Section 103 of the HUD Reform Act.
(g) Section 112 of the HUD Reform Act.
(h) Monitoring.

List of Appendices

Appendix 1. List of local Offices of Native American Programs.

I. Purpose and Substantive Description

(a) Authority

The HOME Investment Partnerships Act (the HOME Act) (title II of the Cranston-Gonzalez National Affordable Housing Act) was signed into law on November 28, 1990 (Pub. L. 101–625), and created the HOME Investment Partnerships (or HOME) Program that provides funds to Indian tribes to expand the supply of affordable housing for very low-income and low-income persons. Interim regulations for the HOME Investment Partnerships Program are codified at 24 CFR part 92. The requirements of 24 CFR part 92, subpart M (§§ 92.600–92.652) apply specifically to the Indian HOME program.

The HOME Act was amended October 28, 1992 by title II of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550). Amendments to the HOME rule were published on June 23, 1993 (58 FR 34130). Reference in this NOFA to sections and subparts of the HOME rule refer to the rule as amended.

(b) Allocation Amounts

(1) *Fiscal Year 1994 Funding.* In accordance with section 217(a)(2) of the HOME Act, each Fiscal Year (FY) HUD shall provide funds to Indian tribes, totaling one percent (or such other percentage or amount as authorized by Congress) of the amount appropriated for the HOME program to expand the supply of affordable housing. Following the procedures in the rule, the funds shall be awarded competitively. HUD will hold a nationwide competition. For the fiscal year ending September 30, 1994, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1994, (approved October 28, 1993, Pub. L. 103–124), appropriated a total of $1.275 billion for the HOME program. Thus, the amount of funding available for the HOME Indian program for the fiscal year ending September 30, 1994 is $12.75 million.

(2) For FY 1994, HUD may award at least one grant to each of the areas covered by the Offices of Native American Programs listed in Appendix 1, for the purposes of geographic diversity.

(3) A tribe may only apply for grant assistance for one project.

(4) *Project Grant Amount.* The maximum grant amount per project is $1.5 million. Projects may be funded at less than applied for levels. In determining appropriate grant amounts to be awarded, the ONAP may take into account the level of demand, the scale of the activity proposed relative to need, the number of persons to be served, the amount of funds required to achieve project objectives, and the administrative capacity of the applicant to complete the activities in a timely manner.

(5) If the Department does not award the entire $12.75 million in this funding round because there is not a sufficient number of eligible applications, the amount not awarded shall be awarded at another time.

(c) Eligibility

(1) *Eligible Applicants.* For the purposes of the HOME program, eligible applicants are defined as any Indian Tribe, band, group, or Nation, including Alaskan Indians, Aleuts, and Eskimos, and any Alaskan Native Village of the United States that is considered an eligible recipient under Title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or was considered an eligible recipient under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221) before repeal of that Act. Eligible recipients under the Indian Self-Determination and Education

Assistance Act are determined by the Bureau of Indian Affairs.

(2) *Eligible Projects.*

(i) *Size and Location of a Project.* A "project" may be located on one or more sites. The applicant must identify the scale and location of a project and show that the project is within the operating area of the applicant. A project may be as small as one site or as large as the operating area of the tribe. (NOTE: For purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), the term "project" means one or more activities paid for in whole or in part with HUD financial assistance. Two or more activities that are integrally related, each essential to the other, are considered one project.)

(ii) *Categories of Eligible Projects.* In accordance with 24 CFR 92.604, there are four categories of projects that may be funded under the HOME Indian program: (A) Housing rehabilitation (moderate and substantial), (B) acquisition of housing, (C) new housing construction, and (D) tenant-based rental assistance. Project types (A), (B), and (C) may also include site improvements and relocation. A project may be for rental or homeownership.

(A) A rehabilitation project consists of only rehabilitation, or includes acquisition of units with rehabilitation.

(B) An acquisition project consists of the acquisition of standard units not requiring rehabilitation.

(C) A new construction project consists of new construction of housing and may include acquisition and demolition.

(D) A tenant-based rental assistance project consists of tenant-based rental assistance, not tied to specific housing units.

(3) *Eligible Activities.* Eligible activities, in accordance with 24 CFR 92.611, are as follows:

(i) HOME funds may be used by an Indian tribe to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to first-time homebuyers), new construction, reconstruction, or moderate or substantial rehabilitation of nonluxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance; and to pay administrative costs. The specific eligible costs for these activities are set forth in § 92.612.

(ii) Acquisition of vacant land or demolition must be undertaken only with respect to a particular housing project intended to provide affordable housing, and for which funds for construction have been committed.

(iii) Housing that has received an initial certificate of occupancy or equivalent document within a one-year period before an Indian tribe commits HOME funds to the project is new construction for purposes of this part.

(iv) Conversion of an existing structure to affordable housing is rehabilitation, unless the conversion entails adding a unit beyond the existing walls, in which case, the project is new construction for purposes of this part.

(v) Site improvements must be in keeping with improvements of surrounding, standard projects. Site improvements include roads, streets, sidewalks, curbs, gutters, and connections to utilities, such as storm and sanitary sewers, water supply, gas, and electricity. The "site" of the improvements may include property adjacent or near the immediate site of the housing if this property and the housing are owned by the same entity (e.g., the housing is owned—at least until sold to first-time homebuyers—by the tribe and the housing and the improvements are located on a reservation). If the site improvements will benefit housing (existing or future) in addition to housing assisted with FY 1994 HOME Indian Program grant funds, only a pro-rated share of the site improvements may be charged to the HOME grant.

(d) Eligibility Requirements

The applicant must ensure that its application meets each of the eligibility requirements. The eligibility requirements, to be included in the application package, are:

(1) A description of the proposed project (for this requirement, use Form HUD–4122–I, Indian HOME Program Grants; Project Summary; the component that addresses the summary description of the proposed project). An application must provide a brief narrative summary description of the proposed project that tells HUD what the applicant wants to do with program funds. The applicant must include this brief narrative summary description. While there are no points for this project description requirement, it is a necessary eligibility requirement. For an application to be considered for ranking, rating and funding, it must include a brief description of the project or projects proposed for funding.

(2) A schedule for the implementation of the proposed project (for this requirement, use Form HUD–4125–I, Indian HOME Program Grants; Implementation Schedule; the component that addresses the implementation schedule for the proposed project). An application must provide information that tells HUD about the applicant's schedule for the project and the use of program funds. The applicant must include this information. While there are no points for this project schedule requirement, it is a necessary eligibility requirement. For an application to be considered for ranking, rating and funding, it must include information about the project schedule.

(3) In addition to providing a brief summary project description and project schedule, an application must tell HUD how the project meets the selection criteria. This NOFA presents the selection criteria in section I.(e), below. The selection criteria are taken from the regulation for the HOME program at 24 CFR 92.604. The applicant must tell HUD how its project meets each of the criteria listed in this NOFA. While there are no points for this requirement, it is also an eligibility requirement.

(4) Although Indian tribes are not required to submit a Comprehensive Housing Affordability Strategy (CHAS), a Tribal Housing Plan, or a housing strategy to receive HOME funds, information is required which demonstrates how the project will contribute to a comprehensive approach for expanding the supply of affordable housing for members of the Indian tribe (for this requirement use Form HUD–4121–I, Indian HOME Program Grants; Comprehensive Approach; the component that addresses the comprehensive approach for expanding the supply of affordable housing).

(e) Selection Criteria and Ranking Factors

Each project submitted for grant funding shall be evaluated using the three criteria provided in 24 CFR 92.604, as more fully explained in sections I.(e) (1), (2), and (3) of this NOFA, below. See Figure 1. For an application to be considered for rating, ranking, and funding, all eligibility requirements must be addressed. After rating, the project must receive at least 50 points to be considered for funding. The complete rating and ranking process is described in detail at section I.(e)(4).

HUD suggests that each applicant score its own project, even though there is no requirement to do so. This will help to show how a project might be

scored by the reviewers. It will also help to show if the application meets the eligibility requirement and the minimum point score requirement (50 points), and where the strengths and weaknesses in a project are located. Then, the applicant can strengthen the weaker parts of a project and use the stronger parts as a model. Copies of the scoring sheets that will be used by HUD to evaluate a project are available from the ONAP.

The HOME program is for low-income and very low-income persons. In the application, applicants should provide information on the median income for the community in which the proposed project is located. If this information is not available, the applicant should obtain it from the ONAP.

FIGURE 1.—INDIAN HOME PROGRAM SCORING

Selection criteria	Maximum points
Need and design	30
Planning and implementation	40
Leveraging	30

(1) Need and Design—30 points maximum.

The first of the three criteria provided in 24 CFR 92.604 is: The degree to which the proposed project addresses the housing needs of the tribe as identified in the application and through other information available to HUD in the application, and the degree to which the proposed project is feasible while maximizing benefits to very low and low-income families. This first criterion is divided into two parts that will be examined and evaluated separately:

(i) Need—15 points maximum. The degree to which the proposed project addresses the housing need(s) of the Indian tribe as identified in the documentation for the project and through other information available to HUD. Tribal need must be documented. This documentation should include current IHA waiting lists, data on the degree of overcrowding, percentage of population in need of housing based upon census data, etc.

(ii) Project feasibility—15 points maximum. Project feasibility as measured here is the degree to which the number and size of the proposed housing units matches the need for low income housing identified in the previous evaluation factor. Examples: There is a match between the size of the proposed units and the size of units needed by the low income families to be housed. There is a match between the number of proposed units and the number of families to be housed. Documentation for a project must demonstrate that:

(A) The proposed project is feasible for its community in terms of the degree to which it maximizes benefits to very low and low-income persons;

(B) The proposed project shall provide a sufficient number of units of the appropriate size for the need that was identified;

(C) The units are suitable for occupancy (or shall be made suitable);

(D) The units are in compliance with building code requirements or shall be brought into compliance (modular and manufactured homes are eligible forms of housing); and

(E) The project plan shall indicate a schedule for the implementation of the expanded housing opportunities.

(2) Planning and Implementation—40 points maximum.

The second of the three criteria provided in 24 CFR 92.604 is: The degree to which the financial, legal, and administrative actions necessary to undertake the proposed project have been considered and addressed in the documentation for the project, and the degree to which the applicant has the administrative staff to carry out the project successfully. Applicants must be concrete and specific in describing the financial, administrative, and legal actions involved in the project, and must describe their own administrative capability, existing or planned, to carry out the project. The applicant must demonstrate, using complete cost and revenue estimates for the project, that the proposed project is feasible and meets the regulatory affordability requirements. This criterion is divided into three parts that will be examined and evaluated separately:

(i) Financial—15 points maximum.

(ii) Legal and Administrative Actions—10 points maximum.

(iii) Administrative Staffing—15 points maximum.

(3) Leveraging—30 points maximum.

The third of the three criteria provided in 24 CFR 92.604 is: Leveraging of HOME funds. Leveraging is the degree to which other sources of assistance, including, but not limited to: Loans, advances, equity investments, interest subsidies, State funds, private contributions, and in-kind contributions are used in conjunction with HOME funds to carry out the proposed project. Funds from all such sources to be used for the applicant's project shall be documented by a written commitment and may be contingent on approval of the HOME award. These resources shall be counted only if they are currently available or shall be available within 3 months of grant notification. The degree to which other sources of assistance are used shall be evaluated, and points shall be awarded based upon the number of dollars available from other sources of assistance divided by the number of HOME dollars requested in the application.

(i) Points shall be awarded as presented in Table 1. For example, when one hundred (or more) dollars are made available from other sources of assistance for each one hundred dollars of HOME funds requested in the application, the maximum number of points (30) is awarded. When sixty dollars are made available from other sources of assistance for each one hundred dollars of requested HOME funds, ten points are earned.

TABLE 1.—SCORING GUIDE

Leveraging			
	Ratio	Points	Score
1.	100% or more	30	
2.	80% but less than 100%.	20	
3.	60% but less than 80%.	10	
4.	40% but less than 60%.	5	
5.	Less than 40%	0	

(ii) Ratio as a percentage is computed by dividing the number of dollars made available from other sources of assistance by the number of dollars of HOME funds requested in the application, and multiplying by 100.

(iii) Applicants must provide documentation of the amount and sources of additional funds, including mortgage insurance, tribal funds, private contributions, tribal in-kind contributions directly related to the activity (labor, material, and equipment, as well as for soft costs, e.g., architectural and engineering costs, administrative costs), etc., which are to be used in conjunction with HOME funds to carry out the proposed project.

(iv) In-kind contributions must be documented. Land already owned by the tribe shall not be counted. In the case of land donated by individuals or entities, it shall be counted if the donation was contingent upon the receipt of the award. All funds, services, and land to be contributed must be documented. Land value shall be counted as a contribution only to the extent of its appraised value. All appraisals shall be in conformance with established and generally recognized appraisal practices and procedures in common use by professional appraisers. Donated services shall be accepted,

provided: First, the costs are demonstrated and determined necessary and directly attributable to the actual development of the project; and second, comparable costs and time estimates are submitted that justify the costs attributable to the donated services or labor. Donated labor shall be valued at a level necessary for the work provided and shall be assessed at the skill level of the individual(s) providing the labor.

(v) The amounts recognized as leverage can include any other Federal grant or assistance program. Loans secured through mortgage loan insurance programs (e.g., section 248 mortgage loan insurance) can be recognized as leverage.

(4) Application Review.

(i) Receipt, eligibility, correctable deficiencies, and non-correctable deficiencies.

(A) Receipt. Upon receipt of the application, the ONAP will note the date and time and provide written acknowledgement to the applicant indicating the date and time the application was received.

(B) Eligibility. Each application will be screened at the ONAP for eligibility. For the project to be considered further, the applicant must be eligible. If the applicant proposes to involve its IHA, the IHA must not have been disqualified for funding of new projects, as determined in accordance with 24 CFR 905.135.

(C) Correctable deficiencies. The opportunity to correct a technical, non-substantive deficiency is only given for those deficiencies which would not affect the evaluation of the application. Therefore, only minor administrative deficiencies are correctable. These are a failure to submit a certification with the application or failure to submit a signed certification with the application. An applicant is not permitted to improve its application by filing statements that address substantive requirements after the due date for submissions has passed. If the application has correctable deficiencies, the ONAP shall notify the applicant in writing that the applicant has additional time to submit the missing item or correct the mistake. The ONAP must receive the correction before the end of the selection period.

(D) Non-correctable deficiencies. If the application does not include all the items identified as non-correctable eligibility requirements, the ONAP shall not request any corrections for correctable deficiencies. The ONAP shall set it aside and not transmit it to the national panel. When HUD announces its decisions concerning the funding competition, the ONAP shall notify the applicant whose application did not meet the eligibility requirements.

(ii) Eligibility requirements. Completeness will be determined by the ONAP as to whether the application includes all the non-correctable items, properly prepared and executed, identified in the Checklist of Application Submission Requirements. Following receipt and eligibility determination, but prior to advice to the applicant concerning correctable deficiencies, the application will be reviewed by the ONAP to determine whether the application includes all the items identified as eligibility requirements under the Eligibility Requirements heading. No rating or point scoring will be done. Therefore, ONAP review does not include determining whether the application meets the minimum point score requirement. After these ONAP reviews, each complete application and each application which is complete except for correctable deficiencies will be sent with the ONAP checklist by the ONAP to the national panel for rating and ranking against the evaluation factors.

(iii) Rating and ranking. There will be a single national rating and ranking of projects for a national competition.

The reviewer should use as a guide Figure 2.—Rating Form for Indian HOME Grant Applications, below, to roll-up the scores for each of the selection criteria.

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Figure 2.--Rating Form for Indian HOME Grant Applications.

APPLICANT:

REVIEWER:

DATE:

ELIGIBILITY REQUIREMENTS	Yes	No
1. Submission of Form HUD-4122-I, Indian HOME Program Grants. Project Summary. Component that addresses the summary description of the proposed project.		
2. Submission of Form HUD-4123-I, Indian HOME Program Grants. Cost Summary.		
3. Submission of How Project Meets Selection Criteria.		
4. Submission of Form HUD-4121-I, Indian HOME Program Grants. Comprehensive Approach. Component That Addresses The Comprehensive Approach For Expanding The Supply Of Affordable Housing. How project contributes to a comprehensive approach for expanding the supply of affordable housing for members of the Indian tribe.		
MEETS ALL ELIGIBILITY REQUIREMENTS.....		

POINT SCORES FOR EACH FACTOR	MAX. PTS.	PROJECT SCORE
1. Need and Design	total 30	
a. Housing need	subtotal (15)	
b. Project feasibility	subtotal (15)	
2. Planning and Implementation	total 40	
a. Financial	subtotal (15)	
b. Legal and Administrative Actions	subtotal (10)	
c. Administrative Staffing	subtotal (15)	
3. Leveraging	total 30	
PROJECT TOTAL SCORE	max. 100	

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(A) Merged ranking. After the projects from all applicants have been rated, their scores will be assembled in a single, merged list of scores for all rated projects. There will be a single national list.

(B) Computation. Scores for ranking will be carried out to two decimal places (e.g., 12.34).

(C) Selection. The ranking process will produce an ordered list of projects that may receive funding. The order is established by the number of points the project received in the rating process. The eligibility requirement for further consideration will be 50 out of 100 points. Project applications scoring lower than 50 points will be set aside as non-responsive and ineligible. After rating and ranking but before selection for award, HUD Field ONAPs will perform an environmental review of applications in accordance with 24 CFR part 50, and applications may be re-ranked or disqualified on the basis of the environmental review. Applicants must cooperate in the environmental review process, including supplying HUD with information necessary for HUD to perform the environmental review. Sufficient applications will be rated and ranked to substitute for applications changed in rank or disqualified on the basis of the environmental review. Of the qualifying applications, in general, the project with the highest ranking after environmental review will be funded first, the next highest will be funded second, and so on, continuing through all the projects that have met the eligibility requirements or until the funds are exhausted. However, for the purposes of geographic diversity, HUD may award at least one grant to each of the areas covered by the Offices of Native American Programs listed in Appendix 1.

(D) Tie Breaker. When rating results in a tie among projects, projects will be approved in the following order:

(1) Those that can be fully funded over those that cannot be fully funded;

(2) Projects that benefit the most very low and low-income persons; and

(3) Projects that benefit the highest percentage of the total population of the tribe.

II. Application Process

(a) Application Packages

Although this NOFA provides the public with notice of, and salient information about, the FY 1994 HOME program for Indian applicants, it is the application kit that provides applicants with comprehensive information on how to participate in the program. Applicants should obtain a copy of the application kit, which includes copies of required forms, from any ONAP listed in Appendix 1.

(b) Submittal of Complete Application

Completed applications must be submitted to the ONAP having jurisdiction for the applicant at the address listed at Appendix 1. The application shall be submitted on Form 424 and shall be accompanied by all the legal and administrative attachments required by the form.

(c) Application Due Date

An applicant may submit an application for a project at any time after the publication date of this NOFA, to the ONAP having jurisdiction over the applicant on or before 4:30 P.M. ONAP local time, July 15, 1994. This application deadline is firm as to date and hour. The Department shall treat as ineligible for consideration any application that is received after the deadline. Applicants should make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. Facsimile ("FAX") copies of applications will not be accepted.

III. Checklist of Application Submission Requirements

Each application must contain the following:

(a) _____ Standard Form–424, Application for Federal Assistance. Complete side one only. The Catalog of Federal Domestic Assistance identifies this program as program number 14.239.

(b) _____ Form HUD–4121–I, Indian HOME Program Grants. Comprehensive Approach; component that addresses the Comprehensive Approach For Expanding The Supply Of Affordable Housing. Indian tribes are not required to submit a Comprehensive Housing Affordability Strategy (CHAS), a Tribal Housing Plan, or a housing strategy to receive HOME funds. However, the application must demonstrate how the proposed project will contribute to a comprehensive approach for expanding the supply of affordable housing for members of the Indian tribe.

(c) _____ Form HUD–4122–I, Indian HOME Program Grants. Project Summary; component that addresses the summary description of the proposed project.

(d) _____ Components that address the selection criteria. The applicant must provide a narrative and supporting documentation that are responsive to the selection criteria of sections I.(e)(1), (2), and (3) of this NOFA. This includes, but is not limited to, a description of how the HOME funds shall be used, and the various kinds of information that are necessary in order to apply the selection criteria and rating factors.

(e) _____ Form HUD–4123–I, Indian HOME Program Grants. Cost Summary.

(f) _____ Form HUD–4125–I, Indian HOME Program Grants. Implementation Schedule.

(g) _____ Project location map.

(h) _____ Form HUD–2880, Applicant/Recipient Disclosure/Update Report, as required under subpart C of 24 CFR part 12, Accountability in the Provision of HUD Assistance.

(i) _____ Form HUD–4126, which contains the following certifications:

(1) A certification that the applicant shall comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of section 92.634.

(2) A certification that the applicant shall use HOME funds in compliance with all the requirements of 24 CFR part 92, the HOME investment partnerships program interim rule.

(3) Drug-free workplace. The certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F and appendix C.

(4) Debarment. The certification that neither the applicant nor its principals are presently excluded from participation in any HUD programs, as required by 24 CFR part 24, appendix A.

IV. Other Matters

(a) Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

(b) Energy

Utility expenses place a heavy burden on Indian housing and often cause abandonment. Applicants are encouraged to address this problem in applications for funding. 24 CFR 92.621: "Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of

American Building Officials. Substantially rehabilitated housing must meet the cost-effective energy conservation and effectiveness standards in 24 CFR part 39." See also 24 CFR sec. 905.250(b) and 24 CFR sec. 85.36(b)(7).

(c) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this NOFA shall not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the order. The NOFA is limited to providing funds to Indian tribes in accordance with a program to expand the supply of affordable housing.

(d) Family Impact

The General Counsel, as the Designated Official for Executive Order 12606, the Family, has determined that the provisions of this NOFA have the potential for indirect, although positive, impact on family formation, maintenance and general well-being within the meaning of the Order. The NOFA provides funds to Indian tribes in accordance with a program to expand the supply of affordable housing. To the extent that housing for families is increased, the impact on the family is indirect and beneficial. Accordingly, no further review is considered necessary.

(e) Section 102 of the HUD Reform Act

Documentation and Public Access Requirements; Applicant/Recipient disclosures:

Documentation and public access requirements. HUD shall ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, shall be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material shall be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD shall include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures. HUD shall make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) shall be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—shall be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the **Federal Register** on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(f) Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a) was published on May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics shall provide information of a general nature to HUD employees, as well.

(g) Section 112 of the HUD Reform Act

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule. Forms necessary for compliance with the rule may be obtained from the local HUD office.

(h) Monitoring

(i) HUD Monitoring. HUD monitoring will be in accordance with the provisions at 24 CFR 92.650, Performance Reviews.

(ii) Grantee Reports. Grantees must submit performance reports in accordance with 24 CFR 92.649.

(iii) Certifications. HUD monitoring will continue until the grant funds are expended and the project is complete. After that, HUD will rely upon an annual statement from the grantee—throughout the required period—which affirms that the project continues to meet affordability requirements.

Authority: 42 U.S.C. 3535(d) and 12701–12839.

Dated: February 18, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

Appendix 1. List of local Offices of Native American Programs

Region V—Chicago, Office of Native American Programs, HUD, 77 West Jackson Boulevard, 24th Floor, Chicago, Illinois 60604–3507, 312–231–1282 or 1–800–735–3239, TDD Numbers: 1–800–927–9275, 312–886–3741

Region VI—Oklahoma, Office of Native American Programs, HUD, Murrah Federal Building, 200 N.W. 5th Street, Oklahoma City, Oklahoma 73102–3202, 405–231–4101, TDD Numbers: 405–231–4181, 405–231–4891

Region VIII—Denver, Office of Native American Programs, HUD, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202–2349, 303–844–2963, TDD Number: 303–844–6158

Region IX—Phoenix, Office of Native American Programs, HUD, Two Arizona Center, 400 North Fifth Street, Suite 1650, Phoenix, Arizona 85004–2360, 602–379–4156, TDD Number: 602–379–4461

San Francisco, Office of Native American Programs, HUD, 450 Golden Gate Avenue,

8th Floor, Box 36003, San Francisco, CA 94102–3448, 415–556–9200, TDD Number: 415–556–8357

Albuquerque, Office of Native American Programs, HUD, P.O. Box 1128, 421 Gold Street, Room 304, Albuquerque, NM 87103, 505–766–1372, TDD Number: None

Region X—Seattle, Office of Native American Programs, HUD, Seattle Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000, 206–220–5270, TDD Number: None

Region X—Anchorage, Office of Native American Programs, HUD, University Plaza Building, 949 E. 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, 907–271–4633, TDD Number: 907–271–4328

[FR Doc. 94–5535 Filed 3–9–94; 8:45 am]

BILLING CODE 4210–33–P

federal register

Thursday
March 10, 1994

Part VIII

Department of Health and Human Services

Agency for Toxic Substances and Disease Registry

Status of the Superfund Substance-Specific Applied Research Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–79]

Status of the Superfund Substance-Specific Applied Research Program

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice provides the status of ATSDR's effort to implement the Agency's Substance-Specific Applied Research Program (SSARP). This research program, authorized by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604 (i)], was initiated on October 17, 1991. At that time, a list of priority data needs for 38 priority hazardous substances was announced in the **Federal Register** (56 FR 52178). The list was subsequently revised based on public comments, and published in final form on November 16, 1992 (57 FR 54150).

The 38 substances, each of which is found on ATSDR's "List of Priority Hazardous Substances" (56 FR 52166, October 17, 1991), are aldrin/dieldrin, arsenic, benzene, beryllium, cadmium, carbon tetrachloride, chloroethane, chloroform, chromium, cyanide, p,p'-DDT,DDE,DDD, di(2-ethylhexyl)phthalate, lead, mercury, methylene chloride, nickel, polychlorinated biphenyl compounds (PCBs), polycyclic aromatic hydrocarbons (PAHs) (includes 15 substances), selenium, tetrachloroethylene, toluene, trichloroethylene, vinyl chloride, and zinc.

This notice also serves as a continuous call for voluntary research initiatives. ATSDR encourages private sector organizations to volunteer to conduct research to fill specific priority data needs. A Tri-Agency Superfund Applied Research Committee (TASARC) comprised of scientists from ATSDR, the National Toxicology Program (NTP), and the Environmental Protection Agency (EPA) will review all proposed voluntary research efforts.

DATES: ATSDR considers the voluntary research effort to be important to the continuing development of the SSARP. Therefore, the Agency encourages private sector organizations to volunteer at any time to conduct research to fill identified data needs, until ATSDR announces that research has been initiated for a specific data need.

ADDRESSES: Private sector organizations interested in volunteering to conduct this type of research may write to Dr. William Cibulas, Chief, Research Implementation Branch, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Dr. William Cibulas, Chief, Research Implementation Branch, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6306.

SUPPLEMENTARY INFORMATION:

Background

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) or CERCLA, as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i)], requires that ATSDR (1) jointly with the Environmental Protection Agency (EPA), develop and prioritize a list of hazardous substances found at National Priorities List (NPL) sites, (2) prepare toxicological profiles for these substances, and (3) assure the initiation of a research program to fill identified data needs associated with the substances. Before starting such a program, ATSDR will consider recommendations of the Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act on the type of research that should be done.

On October 17, 1991, ATSDR announced the identification of the priority data needs for 38 priority hazardous substances (56 FR 52178), requested public comments, and invited private sector organizations to volunteer to conduct research to fill specific priority data needs. On November 16, 1992, the Agency published a revised list of 117 priority data needs for these priority hazardous substances (57 FR 54150).

The major goals of the ATSDR SSARP are: (1) To fill the substance-specific information needs of the public and scientific community, and (2) to supply information necessary to conduct comprehensive public health assessments of populations living near hazardous waste sites. This program also will provide data that can be generalized to other substances or areas of science, including risk assessment of chemicals, thus creating a scientific base for filling a broader range of data needs.

CERCLA, in section 104(i)(5)(D), states that it is the sense of Congress that the costs for conducting this research program be borne by the manufacturers and processors of the hazardous substances under the Toxic Substances Control Act (TSCA) and by registrants under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), or by cost recovery from responsible parties under CERCLA. To effect this statutory intent, ATSDR developed a plan whereby parts of the SSARP will be conducted via regulatory mechanisms (TSCA/FIFRA), private sector voluntarism, and the direct use of CERCLA funds.

A Tri-Agency Superfund Applied Research Committee (TASARC) comprised of scientists from ATSDR, NTP, and the EPA has been set up to: (1) Advise on the assignment of priorities on mechanisms for filling data needs; (2) coordinate knowledge of research activities to avoid duplication of research in other programs and under other authorities; (3) advise on issues of science related to substance-specific data needs; and (4) maintain a scheduled forum that provides an overall review of the ATSDR SSARP. The TASARC has met four times since the initiation of the SSARP. This notice provides the status of ATSDR's efforts to implement the SSARP, focussing on ongoing activities relevant to test rule development under TSCA/FIFRA, private sector voluntarism, and direct use of CERCLA funds. Additional data needs are being addressed through an interagency agreement with NTP, by ATSDR's Great Lakes human health effects research program, and other Agency programs. To date, 59 priority data needs associated with 35 ATSDR priority hazardous substances (including 15 PAHs) are being addressed via these mechanisms (Table 1).

A. TSCA/FIFRA

In developing and implementing the SSARP, ATSDR, NTP, and EPA have established procedures to identify priority data needs of mutual interest to Federal programs. These data needs will be filled through a program of toxicological testing under TSCA. This portion of the research will be conducted according to established TSCA procedures and guidelines. This testing will fulfill more than one Federal program's need. During FY 1993, a subset of the 117 priority data needs for 38 substances (about 60) was referred to the EPA under its authorities following

review and endorsement by the TASARC oversight committee. Currently, 26 priority data needs associated with 11 ATSDR substances have been recommended by EPA to be added to its Master Testing List, the first step in test rule development under TSCA, section 4 (Table 2). Please note that although ATSDR has identified priority data needs for oral exposure to tetrachloroethylene, cyanide, and beryllium, in response to other Federal government agency needs, ATSDR will consider proposals to conduct inhalation studies in conjunction with pharmacokinetic studies for these substances in lieu of bioassays using oral exposures. It is anticipated that inhalation data derived from these studies can be used, in conjunction with pharmacokinetic modeling, to address ATSDR's oral toxicity data needs.

Some of ATSDR's priority hazardous substances will not be added to EPA's Master Testing list because they do not fall within the bounds of TSCA, Section 4 authority. For example, TSCA does not require testing chemicals that are out of production, such as PCBs. Furthermore, TSCA is not considered the appropriate mechanism for testing PAHs, because the PAHs are by-products of multiple industrial processes and, therefore, it is difficult to identify specific manufacturers. In addition, TSCA guidelines are not available for some of the ATSDR priority data needs such as the development of analytical methods for cadmium and beryllium, mechanistic studies on the neurotoxic effects of lead, and the mitigation of toxicity of vinyl chloride. Moreover, some of the ATSDR priority hazardous substances are considered more appropriate for FIFRA than TSCA, e.g., arsenic, DDT, and aldrin/dieldrin. The Office of Pollution, Prevention and Toxics (OPPT), EPA, forwarded the data needs for these substances to the Office of Pesticide Programs for evaluation.

B. Private Sector Voluntarism

As part of the SSARP, ATSDR initially announced a set of proposed procedures for conducting voluntary research on February 7, 1992 (56 FR 4758). It was revised based on public comments and published on November 16, 1992 (57 FR 54160). This voluntary research program fills priority data needs along with other mechanisms such as test rule development through EPA and CERCLA-funded research. Private sector organizations were encouraged to volunteer to conduct research to fill these specific priority data needs.

Currently, ATSDR is pursuing voluntary research interests with two private sector organizations: the General Electric Company (GE) and the Halogenated Solvents Industry Alliance (HSIA). To date, through the voluntary research efforts of GE and HSIA, four priority data needs for two substances are under discussion, potentially leading to the signing of two memorandums of understanding (Table 3).

During FY 1993, ATSDR staff members met with officials from GE to discuss the Agency's research agenda for PCBs. The Agency has identified mutual interests in environmental fate testing and human health endpoints assessments and has initiated discussion on these studies with GE.

ATSDR met with HSIA representatives to discuss the use of physiologically-based pharmacokinetic (PBPK) models to fill priority data needs for six volatile organic compounds. The Agency selected methylene chloride to start using PBPK modeling to address ATSDR's toxicity priority data needs because of the extensive database on this substance. The toxicity priority data needs for the remaining 5 volatile organic compounds (carbon tetrachloride, chloroethane, chloroform, tetrachloroethylene, and trichloroethylene) may be addressed via similar voluntary efforts in the future.

C. CERCLA-Funded Research (Minority Health Professions Foundation Research Program)

During FY 1992, ATSDR announced a $4 million cooperative agreement program with the Minority Health Professions Foundation (MHPF) to support substance-specific investigations. This cooperative venture is supported by the direct use of CERCLA funds. During FY 1993, about $4 million was allocated to continue this research program; no new projects were initiated. Currently, 9 priority data needs for 21 priority hazardous substances (including 15 PAHs) in the SSARP are being addressed by the MHPF institutions through this program. Also, the MHPF research program will address 13 other substance-specific data needs identified in the ATSDR toxicological profiles concerning exposures and related health effects. The institutions receiving awards and their respective research projects are listed in Table 4.

The MHPF, a not-for-profit 501(c)(3) organization, is comprised of 11 minority health professions schools. Its primary mission is to research the persistent health problems that disproportionately plague poor and minority citizens. The purposes of the ATSDR-MHPF cooperative agreement are: (1) To initiate research to fill ATSDR-identified data needs for priority hazardous substances, and (2) to enhance existing disciplinary capacities to conduct research in environmental health at MHPF member institutions.

The areas of research at MHPF institutions include those related to broad areas of toxicology and environmental health science. Some of the MHPF member institutions are conducting health studies of minority groups exposed to ATSDR's priority hazardous substances.

D. National Toxicology Program

ATSDR maintains an interagency agreement (IAG) with NTP to conduct toxicological testing of substances identified at NPL sites. The studies determine levels of exposure that present a significant risk to humans of acute, subacute, and chronic health effects. Often these studies include an assessment of the substance's ability to cause cancer, reproductive toxicity, and birth defects. The results of these studies are used by regulatory agencies such as the Food and Drug Administration and the EPA, various environmental and industrial groups, and ATSDR to improve the ability to conduct public health assessments at NPL sites. Under this agreement, one toxicity priority data need identified in the SSARP (carbon tetrachloride, immunotoxicology battery of tests via oral exposure) is currently being addressed. This NTP study was begun in September 1993 and should be completed in February 1994.

E. Great Lakes Human Health Effects Research Program

Some of the priority data needs identified in the SSARP have been independently identified as research needs through the ATSDR Great Lakes human health effects research program, a separate research program. To date, 12 priority data needs for 19 priority hazardous substances (including 15 PAHs) identified in the SSARP are being addressed through this program. The institutions receiving awards and their respective studies are listed in Table 5.

The Great Lakes Critical Programs Act of 1990 mandates EPA, in consultation with ATSDR, to prepare a report by September 30, 1994, that assesses the adverse effects of pollutants in the Great Lakes system on the health of individuals in the Great Lakes states. A variety of persistent toxic substances are prevalent in the Great Lakes, including PCBs, DDT and its metabolites, dieldrin, toxaphene, mirex, mercury,

benzo[a]pyrene, hexachlorobenzene, furans, dioxins, and lead. Certain populations—Native Americans, sport anglers, fetuses and nursing infants of mothers who consume contaminated Great Lakes fish—have a potentially higher risk of long-term adverse effects resulting from exposure to these contaminants.

The ATSDR-supported research projects focus on these high-risk populations to try to further define the human health consequences of exposure to these persistently toxic substances. The research activities include, but are not limited to: (1) Characterizing exposure and determining the profiles and levels of Great Lakes contaminants in biological tissues and fluids in high-risk populations; (2) identifying sensitive and specific human reproductive/developmental end points and correlating them to exposure to Great Lakes contaminants; (3) determining the short- and long-term risk(s) of adverse health effects in progeny whose parents were exposed to Great Lakes contaminants; (4) investigating the feasibility of establishing registries and surveillance cohorts in the Great Lakes region; and (5) establishing a chemical mixtures database with emphasis on tissue and blood levels in order to identify new cohorts, conduct surveillance and health effects studies, and establish registries and surveillance cohorts.

During FY 1992, ATSDR announced a $2 million grant program to conduct research on the impact on human health of contaminated fish consumption in the Great Lakes region. On September 30, 1992, ATSDR announced nine awards under this program.

In FY 1993, about $3 million was allocated to support the continuation of the research projects conducted at the nine institutions originally funded during FY 1992. In addition, ATSDR awarded one new grant to the Michigan Department of Public Health to design, establish, and operate a professionally creditable interlaboratory quality assurance/quality control program for the ATSDR Great Lakes human health effects research program.

F. Other ATSDR Programs

In its role as a public health agency addressing environmental health, ATSDR may, where appropriate, collect human data to validate substance-specific exposure and toxicity findings; information on levels of contaminants in humans has been identified as a priority data need for 37 of the 38 priority substances (Table 1). ATSDR will obtain this information through exposure and health effects studies, and through establishing and using substance-specific subregistries of people within the Agency's National Exposure Registry who have potentially been exposed to these substances.

The list of 38 priority hazardous substances in the SSARP was forwarded to ATSDR's Exposure and Disease Registry Branch (EDRB), Division of Health Studies, for consideration as potential candidates for subregistries of exposed persons, based on criteria described in EDRB's 1988 document, "Policies and Procedures for Establishing a National Registry of Persons Exposed to Hazardous Substances." To date, ATSDR has selected benzene, chromium, and trichloroethylene as primary contaminants to establish subregistries in the National Exposure Registry. However, aldrin/dieldrin, carbon tetrachloride, chloroethane, chloroform, cyanide, p,p'-DDT, DDE, DDD, di (2-ethylhexyl) phthalate, mercury, methylene chloride, PAHs, selenium, tetrachloroethylene, and vinyl chloride remain as a part of the candidate pool. They will be considered for selection as primary contaminants during each selection process (Table 1). Finally, arsenic, beryllium, cadmium, lead, nickel, PCBs, toluene, and zinc are not considered to be in the pool of candidate substances for an exposure registry at this time. This decision will be re-evaluated as more information on the chemicals and exposure sites become available.

With regard to epidemiologic studies, ATSDR believes that for many of the 38 priority hazardous substances, an extensive amount of animal data, and some human data, have already been collected; therefore, ATSDR considers it appropriate, where feasible, to conduct epidemiologic studies on such substances. In response to public comments, the Agency's SSARP will address substance-specific rather than site-specific epidemiologic studies.

The substance-specific studies are designed to determine substance-specific cause and effect. In this case, ATSDR is not necessarily directed toward populations exposed via the environment at hazardous substance release sites, as in a site-specific study. Instead, any appropriate population of suitable exposure via the environment, consumer products, or occupation can be used to design a rigorous analytic epidemiologic investigation. Epidemiologic studies on several of ATSDR's 38 priority hazardous substances (such as DDT, PCBs, and PAHs) are being conducted by the ATSDR Great Lakes human health effects research program (Table 5).

Two epidemiologic studies on lead (identified as a data need by ATSDR), are also being conducted by the Morehouse School of Medicine and the King/Drew Medical Center of the Charles R. Drew University of Medicine and Science via the ATSDR—MHPF cooperative agreement. ATSDR expects that other substance-specific epidemiologic studies, identified as data needs or priority data needs in the SSARP, may potentially be conducted by other Divisions within ATSDR.

ATSDR acknowledges that the conduct of epidemiologic studies to determine possible linkages between exposure to hazardous substances and human health effects may be accomplished other than by Agency programs, or under other ATSDR-sponsored auspices. Toward that end, the Agency encourages the private sector and other government programs to use ATSDR's priority data needs to plan research activities to identify appropriate populations and conduct studies addressing the specific human health issues.

Finally, the collection, evaluation, and interpretation of data from contaminated media around hazardous waste sites have been identified as priority data needs for all 38 priority hazardous substances by ATSDR. However, the Agency realizes that a lot of information has already been collected through individual state programs and the EPA's CERCLA activities; therefore, ATSDR will evaluate the extant information from these programs in order to help fill data needs on substance-specific exposures.

The results of the research conducted via the SSARP will be used for public health assessments and to reassess ATSDR's substance-specific priority data needs. The Agency expects to re-evaluate the priority data needs for priority hazardous substances every three years.

Dated: March 3, 1994.

Walter R. Dowdle,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

TABLE 1.—SUBSTANCE-SPECIFIC PRIORITY DATA NEEDS CURRENTLY BEING ADDRESSED UNDER ATSDR'S APPLIED RESEARCH PROGRAMS

Substance	ID	Priority Data Need	Addressed
Lead	1A	Mechanistic studies on the neurotoxic effects of lead	✔
	1B	Analytical methods for tissue levels	
	1C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	✔
Arsenic	2A	Comparative toxicokinetic studies to determine if an appropriate animal species can be identified.	
	2B	Half-lives in surface water, groundwater	
	2C	Bioavailability from soil	
	2D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
Mercury	3A	Multigeneration reproductive toxicity study via oral exposure	✔
	3B	Dose-response data in animals for chronic-duration oral exposure	✔
	3C	Immunotoxicology battery of tests via oral exposure	✔
	3D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	✔
	3E	Potential candidate for subregistry of exposed persons	✔*
Vinyl Chloride	4A	Dose-response data in animals for acute-duration inhalation exposure	
	4B	Multigeneration reproductive toxicity study via inhalation	✔
	4C	Dose-response data in animals for chronic-duration inhalation exposure	
	4D	Mitigation of vinyl chloride-induced toxicity	
	4E	2-species developmental toxicity study via inhalation	✔
	4F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	4G	Potential candidate for subregistry of exposed persons	✔*
Benzene	5A	Dose-response data in animals for acute- and intermediate-duration oral exposure. The subchronic study should include an extended reproductive organ histopathology.	✔
	5B	2-species developmental toxicity study via oral exposure	✔
	5C	Neurotoxicology battery of tests via oral exposure	✔
	5D	Epidemiological studies on the health effects of benzene (Special emphasis endpoints include: immunotoxicity).	
	5E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
Cadmium	6A	Analytical methods for biological tissues and fluids and environmental media	
	6B	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
PCBs	7A	Dose-response data in animals for acute- and intermediate-duration oral exposures	✔
	7B	Biodegradation of PCBs in water; bioavailability of PCBs in air, water and soil	✔
	7C	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology.	
	7D	Epidemiological studies on the health effects of PCBs (Special emphasis endpoints include: immunotoxicity, gastrointestinal toxicity, liver, kidney, thyroid toxicity, reproductive/developmental toxicity).	✔
	7E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	✔
Chloroform	8A	Dose-response data in animals for intermediate-duration oral exposure	
	8B	Epidemiological studies on the health effects of chloroform (Special emphasis endpoints include: cancer, neurotoxicity, reproductive and developmental toxicity, hepatotoxicity, and renal toxicity).	
	8C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	8D	Potential candidate for subregistry of exposed persons	✔*
PAHs	9A	Dose-response data in animals for intermediate duration oral exposures. The subchronic study should include extended reproductive organ histopathology and immunopathology.	✔
	9B	2-species developmental toxicity study via inhalation or oral exposure	
	9C	Mechanistic studies on PAHs, on how mixtures of PAHs can influence the ultimate activation of PAHs, and on how PAHs affect rapidly proliferating tissues.	
	9D	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology and immunopathology.	✔
	9E	Epidemiological studies on the health effects of PAHs (Special emphasis endpoints include: cancer, dermal, hemolymphatic, and hepatic).	✔
	9F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	✔
	9G	Potential candidate for subregistry of exposed persons	✔*
Trichloroethylene	10A	Dose-response data in animals for acute-duration oral exposure	✔
	10B	Neurotoxicology battery of tests via the oral route	✔
	10C	Immunotoxicology battery of tests via the oral route	✔
	10D	Epidemiological studies on the health effects of trichloroethylene (Special emphasis endpoints include: cancer, hepatotoxicity, renal toxicity, developmental toxicity, and neurotoxicity).	

TABLE 1.—SUBSTANCE-SPECIFIC PRIORITY DATA NEEDS CURRENTLY BEING ADDRESSED UNDER ATSDR'S APPLIED RESEARCH PROGRAMS—Continued

Substance	ID	Priority Data Need	Addressed
	10E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
DDT	11A	Dose-response data in animals for chronic-duration oral exposure	
	11B	Comparative toxicokinetic study (across routes/species)	
	11C	Bioavailability and bioaccumulation from soil	
	11D	Epidemiological studies on the health effects of DDT, DDD and DDE (Special emphasis endpoints include: immunotoxicity, reproductive and developmental toxicity).	✔
	11E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	✔
	11F	Potential candidate for subregistry of exposed persons	✔*
Chromium	12A	Dose-response data in animals for acute-duration exposure to chromium (VI) and (III) via oral exposure and for intermediate-duration exposure to chromium (VI) via oral exposure.	✔
	12B	Multigeneration reproductive toxicity study via oral exposure to chromium (III) and (VI)	✔
	12C	Immunotoxicology battery of tests following oral exposure to chromium (III) and (VI)	✔
	12D	2-species developmental toxicity study via oral exposure to chromium (III) and (VI)	
	12E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
Tetrachloroethylene	13A	Dose-response data in animals for acute-duration oral exposure, including neuropathology and demeanor, and immunopathology.	✔
	13B	Multigeneration reproductive toxicity study via oral exposure	✔
	13C	Dose-response data in animals for chronic-duration oral exposure, including neuropathology and demeanor, and immunopathology.	
	13D	2-species developmental toxicity study via oral exposure	✔
	13E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	13F	Potential candidate for subregistry of exposed persons	✔*
Aldrin/Dieldrin	14A	Dose-response data in animals for intermediate-duration oral exposure	
	14B	Bioavailability from soil	
	14C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	14D	Potential candidate for subregistry of exposed persons	✔*
Cyanide	15A	Dose-response data in animals for acute- and intermediate-duration exposures via inhalation. The subchronic study should include extended reproductive organ histopathology and evaluation of neurobehavioral and neuropathological endpoints.	✔
	15B	2-species developmental toxicity study via oral exposure	✔
	15C	Evaluation of the environmental fate of cyanide in soil	✔
	15D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	15E	Potential candidate for subregistry of exposed persons	✔*
Carbon Tetrachloride	16A	Dose-response data in animals for chronic oral exposure. The study should include extended reproductive organ and nervous tissue (and demeanor) histopathology.	
	16B	Immunotoxicology battery of tests via oral exposure	✔
	16C	Half-life in soil	
	16D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	16E	Potential candidate for subregistry of exposed persons	✔*
Beryllium	17A	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology.	✔
	17B	2-species developmental toxicity study via inhalation exposure	✔
	17C	Environmental fate in air; factors affecting bioavailability in air	✔
	17D	Analytical methods to determine environmental speciation	
	17E	Immunotoxicology battery of tests following oral exposure	✔
	17F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
Toluene	18A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an extended histopathological evaluation of the immune system.	✔
	18B	Comparative toxicokinetic studies (Characterization of absorption, distribution, and excretion via oral exposure).	✔
	18C	Neurotoxicology battery of tests via oral exposure	✔
	18D	Mechanism of toluene-induced neurotoxicity	
	18E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
Nickel	19A	Epidemiological studies on the health effects of nickel (Special emphasis endpoints include: reproductive toxicity).	
	19B	2-species developmental toxicity study via the oral route	
	19C	Dose-response data in animals for acute- and intermediate-duration oral exposures	
	19D	Neurotoxicology battery of tests via oral exposure	
	19E	Bioavailability of nickel from soil	
	19F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	

TABLE 1.—SUBSTANCE-SPECIFIC PRIORITY DATA NEEDS CURRENTLY BEING ADDRESSED UNDER ATSDR'S APPLIED RESEARCH PROGRAMS—Continued

Substance	ID	Priority Data Need	Addressed
Methylene Chloride	20A	Dose-response data in animals for acute- and intermediate-duration oral exposure. The subchronic study should include extended reproductive organ histopathology, neuropathology and demeanor, and immunopathology.	✔
	20B	2-species developmental toxicity study via the oral route	✔
	20C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	20D	Potential candidate for subregistry of exposed persons	✔*
Zinc	21A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an extended histopathological evaluation of the immunologic and neurological systems.	✔
	21B	Multigeneration reproductive toxicity study via oral exposure	
	21C	Carcinogenicity testing (2-year bioassay) via oral exposure	
	21D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
DEHP	22A	Epidemiological studies on the health effects of DEHP (Special emphasis endpoints include: cancer).	
	22B	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an extended histopathological evaluation of the immunologic and neurologic systems.	
	22C	Multigeneration reproductive toxicity study via oral exposure	
	22D	Comparative toxicokinetic studies (Studies designed to examine how primates metabolize and distribute DEHP as compared to rodents via oral exposure).	✔
	22E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	22F	Potential candidate for subregistry of exposed persons	✔*
Selenium	23A	Dose-response data in animals for acute-duration oral exposure	
	23B	Immunotoxicology battery of tests via oral exposure	
	23C	Epidemiological studies on the health effects of selenium (Special emphasis endpoints include: cancer, reproductive and developmental toxicity, hepatotoxicity and adverse skin effects).	
	23D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	
	23E	Potential candidate for subregistry of exposed persons	✔*
Chloroethane	24A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an evaluation of immune and nervous system (and behavior, demeanor) tissues, and extended reproductive organ histopathology.	✔
	24B	Dose-response data in animals for chronic inhalation exposures. The study should include an evaluation of nervous system (and behavior) tissues.	
	24C	Potential candidate for subregistry of exposed persons	✔*

*These substances are included in the pool of candidate substances for subregistry development. These substances will be considered for selection as primary contaminants by the Division of Health Studies, ATSDR, during each selection process.

TABLE 2.—PRIORITY DATA NEEDS BEING ADDRESSED BY EPA RULE MAKING

Substance	ID	Priority Data Need	TSCA/FIFRA
Mercury	3B	Dose-response data in animals for chronic-duration oral exposure	TSCA.
	3C	Immunotoxicology battery of tests via oral exposure	TSCA.
Vinyl Chloride	4B	Multigeneration reproductive toxicity study via inhalation	TSCA.
	4E	2-species developmental toxicity study via inhalation	TSCA.
Benzene	5A	Dose-response data in animals for intermediate-duration oral exposure. The subchronic study should include an extended reproductive organ histopathology.	TSCA.
	5C	Neurotoxicology battery of tests via oral exposure	TSCA.
Trichloroethylene	10A	Dose-response data in animals for acute-duration oral exposure	TSCA.
	10C	Immunotoxicology battery of tests via the oral route	TSCA.
Chromium	12A	Dose-response data in animals for acute-duration exposure to chromium(VI) and (III) via oral exposure.	TSCA.
	12B	Multigeneration reproductive toxicity study via oral exposure to chromium (III) and (VI)	TSCA.
	12C	Immunotoxicology battery of tests following oral exposure to chromium (III) and (VI)	TSCA.
Tetrachloroethylene	13A	Dose-response data in animals for acute-duration oral exposure, including neuropathology and demeanor, and immunopathology.	TSCA (inhalation study).
	13B	Multigeneration reproductive toxicity study via oral exposure	TSCA (inhalation study).
	13D	2–Species developmental toxicity study via oral exposure	TSCA (inhalation study).

TABLE 2.—PRIORITY DATA NEEDS BEING ADDRESSED BY EPA RULE MAKING—Continued

Substance	ID	Priority Data Need	TSCA/FIFRA
Cyanide	15A	Dose-response data in animals for acute- and intermediate-duration exposures via inhalation. The subacute study should include extended reproductive organ histopathology and evaluation of neurobehavioral and neuropathological endpoints.	TSCA.
	15B	2–Species developmental toxicity study via oral exposure	TSCA (inhalation study).
	15C	Evaluation of the environmental fate of cyanide in soil	TSCA.
Beryllium	17A	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology.	TSCA.
	17B	2-species developmental toxicity study via inhalation exposure	TSCA.
	17C	Environmental fate in air; factors affecting bioavailability in air	TSCA.
	17E	Immunotoxicology battery of tests following oral exposure	TSCA (inhalation study).
Toluene	18A	Dose-response data in animals for intermediateduration oral exposures. The study should include an extended histopathological evaluation of the immune system.	TSCA.
	18B	Comparative toxicokinetic studies (Characterization of absorption, distribution, and excretion via oral exposure).	TSCA.
Methylene Chloride	20A	Dose-response data in animals for intermediate-duration oral exposure. The study should include extended immunopathology and neuropathology.	TSCA.
	20B	2-species developmental toxicity study via the oral route	TSCA.
Chloroethane	24A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an evaluation of immune and nervous system (and behavior, demeanor) tissues, and extended reproductive organ histopathology.	TSCA. (EPA will only address the immune system requirement of this Priority Data Need)

TABLE 3.—PRIORITY DATA NEEDS POTENTIALLY BEING ADDRESSED BY VOLUNTARY RESEARCH

Substance	ID	Priority data need	Firm
PCBs	7B	Biodegradation of PCBs in water	General Electric Company.
	7E	Epidemiological studies on the health effects of PCBs (Special emphasis endpoints include: immunotoxicity, gastrointestinal, toxicity, liver, kidney, thyroid, toxicity, reproductive/developmental, toxicity).	General Electric Company.
Methylene chloride	20A	Dose-response data in animals for acute- and intermediate-duration oral exposure. The subchronic study should include extended reproductive organ histopathology, neuropathology and demeanor, and immunopathology.	Halogenated Solvents Industry Alliance.
	20B	2-species developmental toxicity study via the oral route	Halogenated Solvents Industry Alliance.

TABLE 4.—PRIORITY DATA NEEDS BEING ADDRESSED BY MHPF INSTITUTIONS

Substance	ID	Priority data need	Institution
Lead	1A	Mechanistic studies on the neurotoxic effects of lead	Florida A & M University. Texas Southern University.
	1C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	The King/Drew Medical Center of the Charles R. Drew University of Medicine and Science. Morehouse School of Medicine.
Mercury	3A	Multigeneration reproductive toxicity study via oral exposure.	Tuskegee University.
Benzene	5B	2-species developmental toxicity study via oral exposure.	Xavier University.
PAHs	9A	Dose-response data in animals for intermediate duration oral exposures. The subchronic study should include extended reproductive organ histopathology and immunopathology.	Meharry Medical College.
	9D	Dose-response data in animals for acute- and intermediate-duration inhalation exposures. The subchronic study should include extended reproductive organ histopathology and immunopathology.	Meharry Medical College.
Trichloroethylene	10B	Neurotoxicology battery of tests via oral exposure	Texas Southern University.

TABLE 4.—PRIORITY DATA NEEDS BEING ADDRESSED BY MHPF INSTITUTIONS—Continued

Substance	ID	Priority data need	Institution
Toluene	18C	Neurotoxicology battery of tests via oral exposure	Texas Southern University.
Zinc	21A	Dose-response data in animals for acute- and intermediate-duration oral exposures. The subchronic study should include an extended histopathological evaluation of the immunologic and neurological systems.	Xavier University. Tuskegee University.

TABLE 5.—PRIORITY DATA NEEDS BEING ADDRESSED BY THE ATSDR GREAT LAKES HUMAN HEALTH EFFECTS RESEARCH PROGRAM

Substance	ID	Priority data need	Institution
Lead	1C	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	State University of New York at Buffalo. State University of New York at Oswego. Michigan State University. University of Wisconsin—Superior. New York State Health Department. University of Illinois at Chicago. University of Illinois at Urbana-Champaign. Wisconsin Department of Health and Social Services.
Mercury	3A	Multigeneration reproductive toxicity study via oral exposure.	State University of New York at Oswego. University of Illinois at Chicago.
	3D	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	State University of New York at Buffalo. State University of New York at Oswego. Michigan State University. University of Wisconsin—Superior. New York State Health Department. University of Illinois at Chicago. University of Illinois at Urbana-Champaign. Wisconsin Department of Health and Social Services.
	3E	Potential candidate for subregistry of exposed persons.	Wisconsin Department of Health and Social Services.
PCBs	7A	Dose-response data in animals for acute- and intermediate-duration oral exposures.	University of Wisconsin—Superior.
	7E	Epidemiological studies on the health effects of PCBs (special emphasis endpoints include: immunotoxicity, gastrointestinal toxicity, liver, kidney, thyroid toxicity, reproductive/developmental toxicity).	State University of New York at Buffalo. State University of New York at Oswego. University of Wisconsin—Superior. University of Illinois at Chicago. University of Illinois at Urbana-Champaign.
	7F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	State University of New York at Buffalo. State University of New York at Oswego. Michigan State University. University of Wisconsin—Superior. New York State Health Department. University of Illinois at Chicago. University of Illinois at Urbana-Champaign. Wisconsin Department of Health and Social Services.
PAHs	9E	Epidemiological studies on the health effects of PAHs (special emphasis endpoints include: cancer, dermal, hemolymphatic, and hepatic).	Wisconsin Department of Health and Social Services.
	9F	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	Wisconsin Department of Health and Social Services.
DDT	11D	Epidemiological studies on the health effects of DDT, DDD and DDE (special emphasis endpoints include: immunotoxicity, reproductive and developmental toxicity).	State University of New York at Buffalo. State University of New York at Oswego. Michigan State University. University of Illinois at Chicago. Wisconsin Department of Health and Social Services.
	11E	Exposure levels in humans living near hazardous waste sites and other populations, such as exposed workers.	State University of New York at Buffalo. State University of New York at Oswego. Michigan State University. University of Illinois at Chicago. Wisconsin Department of Health and Social Services.
	11F	Potential candidate for subregistry of exposed persons.	Wisconsin Department of Health and Social Services.

[FR Doc. 94–5555 Filed 3–9–94; 8:45 am]
BILLING CODE 4163–70–P

federal register

Thursday
March 10, 1994

Part IX

Department of Education

34 CFR Part 200 et al.

Chapter 1 Programs in Local Educational Agencies and Migrant Education; Proposed Rules

DEPARTMENT OF EDUCATION

34 CFR Parts 200 and 201

RIN 1810–AA70

Chapter 1 Program in Local Educational Agencies and Chapter 1—Migrant Education Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Secretary of Education (Secretary) proposes to issue regulations amending the regulations governing Part A and Part D, Subpart 1 of Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965. Part A of chapter 1 provides financial assistance through State educational agencies (SEAs) to local educational agencies (LEAs) to meet the special educational needs of educationally deprived children in school attendance areas with high concentrations of children from low-income families and children in local institutions for neglected or delinquent children. Part D of chapter 1 authorizes a Migrant Education Program (MEP) that provides financial assistance to SEAs to establish and improve programs to meet the special educational needs of migratory children of migratory agricultural workers or fishermen.

These amendments are needed to afford flexibility to States that have developed assessment systems that support their systemic education reform efforts but that are inconsistent with the national evaluation standards in Subpart H of 34 CFR Part 200 and Subpart E of 34 CFR Part 201. The proposed regulations would enable States to request an exception to those national evaluation standards to use their own assessment systems to evaluate the effectiveness of their Chapter 1 and MEP programs.

DATES: Comments must be received on or before April 25, 1994.

ADDRESSES: All comments concerning the proposed Part 200 regulations should be addressed to Mary Jean LeTendre, U.S. Department of Education, 400 Maryland Avenue SW., Portals Building, Room 4400, Washington, DC 20202–6132.

All comments concerning the proposed Part 201 regulations should be addressed to Francis Corrigan, U.S. Department of Education, 400 Maryland Avenue SW., Portals Building, Room 4104, Washington, DC 20202–6135.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: For Part 200, Wendy Jo New, U.S. Department of Education, 400 Maryland Avenue SW., Portals Building, room 4400, Washington, DC 20202–6132. Telephone: (202) 260–0982. For Part 201, James English, U.S. Department of Education, 400 Maryland Avenue SW., Portals Building, room 4104, Washington, DC 20202–6135. Telephone: (202) 260–1394. 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.

SUPPLEMENTARY INFORMATION: Under section 1435 of chapter 1, the Secretary is required, in consultation with SEAs and LEAs, to develop national standards for evaluation of chapter 1 programs. After enactment of this requirement in 1988, the Secretary held five regional meetings to receive input on the content of these standards and submitted draft standards for consideration in the negotiated rulemaking process required under section 1431 of the statute. After considering additional public comments on proposed regulations, the Secretary issued the final national standards that are contained in Subpart H (§§ 200.80–200.89) of Part 200 of the Chapter 1 regulations.

Under these national standards, LEAs assess, every 12 months, the achievement of each chapter 1 participant in grades 2 through 12 in reading, mathematics, and language arts, as appropriate, compared to an estimate of what his or her achievement would have been in the absence of chapter 1 services. The LEA is required to use a nationally normed test or a test equated to a nationally normed test and report to the SEA the results of student achievement using the common reporting scale established by the Secretary—i.e., normal curve equivalents. The SEA, in turn, is required to aggregate LEA student achievement data to provide a statewide average of student achievement gains resulting from participation in Chapter 1 programs. The Secretary aggregates data from each State in order to submit to Congress biennially a national report on the effectiveness of chapter 1.

Because section 1435 also applies to the MEP, regulations for that program in subpart E of part 201 contain a similar requirement to measure and report student achievement in accordance with national standards using, if possible, appropriate forms and levels of national- or State-normed achievement tests.

Since these regulations took effect, a number of States have developed new assessment systems linked to their statewide reform efforts, to improve the quality of education. Consistent with research and practice that have identified the limitations of traditional assessments, these new systems are tied to complex skills and challenging subject matter and use multiple measures of achievement. They do not routinely use nationally normed tests and typically only assess children in certain grades. As a result, the new assessments are not consistent with the national evaluation standards in parts 200 and 201. Therefore, SEAs and LEAs in these States must operate multiple, overlapping assessment systems.

Several States have requested that the Secretary either waive the current national evaluation standards or modify the regulations to take into account new State assessment activities. The Secretary does not currently have the authority to waive the national standards. Nevertheless, the Secretary does not want chapter 1 or MEP assessment requirements to be a barrier to systemic State reforms that upgrade the quality of elementary and secondary education. The Secretary recognizes that new State assessment systems now being implemented are likely to provide more meaningful data than the current Chapter 1 testing requirements on the success of chapter 1 and MEP programs because those assessments are tied to high State standards for what children should know and be able to do and are integral to systemic State reforms to improve education quality.

To address these concerns, the Secretary proposes to add exceptions to the requirements in Subpart H of Part 200 and in Subpart E of Part 201. These exceptions would enable States that are implementing new assessment systems that support education reform to use those assessments to measure the effectiveness of Chapter 1 and MEP programs in place of the current Chapter 1 testing requirements. The proposed regulations would also permit States to request exceptions for particular LEAs that, absent State systems, have new local assessment systems in place to support their education reform efforts.

In granting an exception, the Secretary would not be waiving any statutory requirements. SEAs and LEAs would continue to evaluate the effectiveness of their Chapter 1 programs under section 1019, perform the annual review required under section 1021(a), measure sustained program gains under sections 1019(a)(3)

and 1021(a)(2), identify schools and students in need of program improvement under section 1021(b) and (f), and meet schoolwide project accountability requirements under section 1015(e), using the State assessment and any other sources of information deemed appropriate. Similarly, under the MEP, SEAs must ensure that they and their operating agencies adhere to the requirements of sections 1011(b), 1019(b) and 1202(a)(6) to use desired outcomes for evaluating performance, to collect and report demographic and performance data, and to examine sustained gains for formerly migratory children.

An exception would give SEAs and LEAs greater flexibility to carry out these provisions. For example, LEAs would no longer be required to use nationally normed tests to measure "aggregate performance" for program improvement purposes. Similarly, evaluation data would not need to be able to be aggregated beyond the LEA level.

The Secretary would review each request for an exception to ensure that it would not impair an SEA's or LEAs' ability to account for results under chapter 1 or the MEP.

The Secretary wishes to emphasize that no State is required to make any changes in its chapter 1 or MEP testing programs as a result of these proposed regulations. Rather, the proposed exceptions are intended to reduce testing burden, provide flexibility for assessment and school reforms that will help the State improve the quality of education, and enable States to align Chapter 1 and MEP assessments with their own assessment systems.

Executive Order 12866

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 benefits associated with the proposed regulations are clear. Rather than continuing to operate multiple assessment systems for Federal and State purposes, States could use their State systems to evaluate their chapter 1 and MEP programs. Moreover, the potential costs associated with the proposed regulations are negligible. Because the proposed regulations would permit States to use their own assessment systems, States would incur few, if any, additional costs. To the contrary, the proposed regulations would result in reduced costs for States that would no longer need to operate multiple assessment systems.

Any burdens specifically associated with information collection requirements are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1980. The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions. The proposed regulations would actually increase States' flexibility in assessing their chapter 1 and MEP programs.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comment on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these proposed regulations without impeding the effective and efficient administration of the chapter 1 and MEP programs.

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 that would be affected by these proposed regulations are small LEAs receiving Federal funds under the Chapter 1 and MEP programs. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 200.90 and 201.57 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget for its review. (44 U.S.C. 3504(h))

These proposed regulations would affect SEAs and LEAs that have developed assessment systems that support their educational reform efforts but that are inconsistent with the national evaluation standards in subpart H of part 200 or subpart E of part 201. The Department needs the information to grant exceptions to the national evaluation standards.

A one-time public reporting and recordkeeping burden for this collection of information is estimated to average two hours per response for a maximum of 52 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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 3002, New Executive Office Building, Washington, DC 20503; Attention: Dan Chenok.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in rooms 4400 and 4100, respectively, Portals Building, 1250 Maryland Avenue, SW., Washington, DC., between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects

34 CFR Part 200

Administrative practice and procedure, Education of disadvantaged, Elementary and secondary education, Grant programs—education, Juvenile delinquency, Neglected, Private schools, Reporting and recordkeeping requirements, State-administered programs.

34 CFR Part 201

Children, Coordination, Education, Eligibility, Evaluation, Grant programs—education, Identification and recruitment, Local educational agencies, Migrant student record transfer system, Migratory children, Migratory workers, Needs assessment, Priorities, Reporting and recordkeeping requirements, Special educational needs, State educational agencies, Subgrants.

Dated: February 22, 1994.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: 84.010, Chapter 1 Program in Local Educational Agencies; 84.011, Migrant Education Basic State Formula Grant Program; 84.012, Chapter 1 Programs—State Administration)

The Secretary proposes to amend parts 200 and 201 of Title 34 of the Code of Federal Regulations as follows:

PART 200—CHAPTER 1 PROGRAM IN LOCAL EDUCATIONAL AGENCIES

1. The authority citation for Part 200 is revised to read as follows:

Authority: 20 U.S.C. 2701–2731, 2821–2838, 2851–2854, 2881–2901, unless otherwise noted.

2. A heading entitled "Exception" and a new § 200.90 are added to subpart H to read as follows:

Exception

§ 200.90 May an SEA request an exception to the requirements in this subpart?

(a) An SEA may request, in writing, an exception to the requirements in this subpart if the SEA desires to use a State assessment system developed to support its education reform efforts for the purpose of evaluating the effectiveness of its Chapter 1 programs.

(b) The Secretary may grant an SEA's request if the State assessment system provides information, that can be aggregated for each LEA as a whole, about the yearly performance of each Chapter 1 school. This information must be from at least one grade level and must be based on student achievement in basic and more advanced skills and challenging subject matter.

(c) An SEA may request an exception that covers all or some of its LEAs.

(Authority: 20 U.S.C. 2729(a), 2835)

PART 201—CHAPTER 1—MIGRANT EDUCATION PROGRAM

3. The authority citation for Part 201 continues to read as follows:

Authority: 20 U.S.C. 2781–2782, unless otherwise noted.

4. A new § 201.57 is added to subpart E to read as follows:

§ 201.57 Exception to evaluation requirements.

(a) An SEA may request, in writing, an exception to the requirements in §§ 201.51(a)(1)(ii), 201.52(b)(1), 201.53, and 201.55 if the SEA desires to use a State assessment system, developed to support its education reform efforts, for the purpose of evaluating the effectiveness of its Chapter 1 Migrant Education Program.

(b) The Secretary may grant an SEA's request if the State assessment system provides a statewide estimate of the yearly performance of migrant children in the State. This information must be from at least one grade level and must be based on student achievement in basic and more advanced skills and challenging subject matter.

(c) An SEA may request an exception that covers all or some of its operating agencies.

(Authority: 20 U.S.C. 2722, 2729, 2782, 2835)

[FR Doc. 94–5532 Filed 3–9–94; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
March 10, 1994

Part X

Department of Education

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance; Notice

DEPARTMENT OF EDUCATION

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance

ACTION: Notice of investigative guidance.

SUMMARY: The Assistant Secretary for Civil Rights announces investigative guidance, under title VI of the Civil Rights Act of 1964, that has been provided to the Office for Civil Rights (OCR) Regional Directors on the procedures and analysis that OCR staff will follow when investigating issues of racial incidents and harassment against students at educational institutions. The investigative guidance incorporates and applies existing legal standards and clarifies OCR's investigative approach in cases involving racial incidents and harassment.

EFFECTIVE DATE: March 10, 1994.

FOR FURTHER INFORMATION CONTACT: Jeanette J. Lim, U.S. Department of Education, 400 Maryland Avenue, SW., room 5036 Switzer Building, Washington, DC 20202–1174. Telephone: (202) 205–8635. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9683 or 1–800–421–3481.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964 (title VI), 42 U.S.C. 2000d *et seq.*, prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance. The Department of Education (Department) has promulgated regulations in 34 CFR part 100 to effectuate the provisions of title VI with regard to programs and activities receiving funding from the Department. The regulations in 34 CFR 100.7(c) provide that OCR will investigate whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with title VI and the Department's implementing regulations. The Department has interpreted title VI as prohibiting racial harassment.

The existence of racial incidents and harassment on the basis of race, color, or national origin against students is disturbing and of major concern to the Department. Racial harassment denies students the right to an education free of discrimination. To enable OCR to investigate those incidents more effectively and efficiently, a memorandum of investigative guidance has been distributed to OCR staff. The substance of this memorandum and the accompanying legal compendium are being published today with this notice to apprise recipients and students of the legal standards, rights, and responsibilities under title VI with regard to this issue.

The guidance outlines the procedures and analysis that OCR will follow when investigating possible violations of title VI based upon racial incidents and harassment. The guidance relies upon current legal standards.

Dated: March 7, 1994.

Norma V. Cantu,

Assistant Secretary for Civil Rights.

Investigative Guidance on Racial Incidents and Harassment Against Students

This notice discusses the investigative approach and analysis that the Office for Civil Rights (OCR) staff will follow when investigating issues of discrimination against students based on alleged racial incidents—including incidents involving allegations of harassment on the basis of race—that occur at educational institutions.[1] This guidance is supplemented by a corresponding compendium of legal resources for detailed legal citations and examples.

Under title VI of the Civil Rights Act of 1964 (title VI) and its implementing regulations, no individual may be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination on the ground of race, color or national origin under any program or activity that receives Federal funds. Racially based conduct that has such an effect and that consists of different treatment of students on the basis of race by recipients' agents or employees, acting within the scope of their official duties, violates title VI. In addition, the existence of a racially hostile environment that is created, encouraged, accepted, tolerated or left uncorrected by a recipient also constitutes different treatment on the basis of race in violation of title VI. These forms of race discrimination are discussed further below.[2]

Jurisdiction

In all cases, OCR must first decide whether it has jurisdiction over claims involving racial incidents or harassment. Under the Civil Rights Restoration Act of 1987,[3] OCR generally has institution-wide jurisdiction over a recipient of Federal funds.

If an institution receives Federal funds, title VI requirements apply to all of the academic, athletic, and extracurricular programs of the institution, whether conducted in facilities of the recipient or elsewhere. Title VI covers all of the uses of property that the recipient owns and all of the activities that the recipient sponsors. Title VI covers all of these operations, whether the individuals involved in a given activity are students, faculty, employees, or other participants or outsiders.

Standard Different Treatment by Agents or Employees

As with other types of discrimination claims, OCR will first apply a standard different treatment analysis to allegations involving racial incidents perpetrated by representatives of recipients. Under this analysis, a recipient violates title VI if one of its agents or employees, acting within the scope of his or her official duties, has treated a student differently on the basis of race, color, or national origin in the context of an educational program or activity without a legitimate, nondiscriminatory reason so as to interfere with or limit the ability of the student to participate in or benefit from the services, activities or privileges provided by the recipient.[4] In applying this standard different treatment analysis, OCR staff will address the following questions—

(1) Did an official or representative (agent or employee) of a recipient treat someone differently in a way that interfered with or limited the ability of a student to participate in or benefit from a program or activity of the recipient?

(2) Did the different treatment occur in the course of authorized or assigned duties or responsibilities of the agent or employee?[5]

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[1] This investigative guidance is directed at conduct that constitutes race discrimination under title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. (title VI), and its implementing regulations at 34 CFR Part 100, and not at the content of speech. In cases in which verbal statements or other forms of expression are involved, consideration will be given to any implications of the First Amendment to the United States Constitution. In such cases, regional staff will consult with headquarters.

[2] For the sake of simplicity and clarity, the term "race" shall be used throughout this guidance to refer to all forms of discrimination prohibited by title VI—i.e., race, color, and national origin.

[3] See 42 U.S.C. 2000d–4 (1988) (amending title VI).

[4] Note that such incidents can constitute violations of title VI even if they do not constitute "harassment," so long as they do constitute direct different treatment by agents or employees, as defined in this section, that interferes with or limits the ability of a student to participate in or benefit from the recipient's programs or activities.

[5] As used throughout this investigative guidance, the determination as to whether an agent or employee of a recipient is acting within the scope

(3) Was the different treatment based on race, color, or national origin?

(4) Did the context or circumstances of the incident provide a legitimate, nondiscriminatory, nonpretextual basis for the different treatment?

Where, based on the evidence obtained in the investigation, questions 1–3 are answered "yes" and question 4 is answered "no," OCR will conclude that there was discrimination in violation of title VI under this standard different treatment analysis. If questions 1, 2 or 3 are answered "no," or if questions 1 through 4 are answered "yes," OCR will find no violation under this theory. If warranted by the nature and scope of the allegations or evidence, OCR will proceed to determine whether the agent's or employee's actions established or contributed to a racially hostile environment as described below. OCR also will conduct a "hostile environment" analysis where actions by individuals other than agents or employees are involved.

Hostile Environment Analysis

A violation of title VI may also be found if a recipient has created or is responsible for a racially hostile environment—i.e., harassing conduct (e.g., physical, verbal, graphic, or written) that is sufficiently severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by a recipient. A recipient has subjected an individual to different treatment on the basis of race if it has effectively caused, encouraged, accepted, tolerated or failed to correct a racially hostile environment of which it has actual or constructive notice (as discussed below).

Under this analysis, an alleged harasser need not be an agent or employee of the recipient, because this theory of liability under title VI is premised on a recipient's general duty to provide a nondiscriminatory educational environment.

To establish a violation of title VI under the hostile environment theory, OCR must find that: (1) A racially hostile environment existed; (2) the recipient had actual or constructive notice of the racially hostile environment; and (3) the recipient failed to respond adequately to redress the racially hostile environment. Whether conduct constitutes a hostile environment must be determined from the totality of the circumstances, with particular attention paid to the factors discussed below.

Severe, Pervasive or Persistent Standard

To determine whether a racially hostile environment exists, it must be determined if the racial harassment is severe, pervasive or persistent. OCR will examine the context, nature, scope, frequency, duration, and location of racial incidents, as well as the identity, number, and relationships of the persons involved. The harassment must in most cases consist of more than casual or isolated racial incidents to establish a title VI violation. Generally, the severity of the incidents needed to establish a racially hostile environment under title VI varies inversely with their pervasiveness or persistence.

First of all, when OCR evaluates the severity of racial harassment, the unique setting and mission of an educational institution must be taken into account. An educational institution has a duty to provide a nondiscriminatory environment that is conducive to learning. In addition to the curriculum, students learn about many different aspects of human life and interaction from school. The type of environment that is tolerated or encouraged by or at a school can therefore send a particularly strong signal to, and serve as an influential lesson for, its students.

This is especially true for younger, less mature children, who are generally more impressionable than older students or adults. Thus, an incident that might not be considered extremely harmful to an older student might nevertheless be found severe and harmful to a younger student. For example, verbal harassment of a young child by fellow students that is tolerated or condoned in any way by adult authority figures is likely to have a far greater impact than similar behavior would have on an adult. Particularly for young children in their formative years of development, therefore, the severe, pervasive or persistent standard must be understood in light of the age and impressionability of the students involved and with the special nature and purposes of the educational setting in mind.

As with other forms of harassment, OCR must take into account the relevant particularized characteristics and circumstances of the victim—especially the victim's race and age—when evaluating the severity of racial incidents at an educational institution. If OCR determines that the harassment was sufficiently severe that it would have adversely affected the enjoyment of some aspect of the recipient's educational program by a reasonable person, of the same age and race as the victim, under similar circumstances, OCR will find that a hostile environment existed. The perspective of a person of the same race as the victim is necessary because race is the immutable characteristic upon which the harassment is based. The reasonable person standard as applied to a child must incorporate the age, intelligence and experience of a person under like circumstances to take into account the developmental differences in maturity and perception due to age.

To determine severity, the nature of the incidents must also be considered. Evidence may reflect whether the conduct was verbal or physical and the extent of hostility characteristic of the incident. In some cases, a racially hostile environment requiring appropriate responsive action may result from a single incident that is sufficiently severe. Such incidents may include, for example, injury to persons or property or conduct threatening injury to persons or property.

The size of the recipient and the location of the incidents also will be important. Less severe or fewer incidents may more readily create racial hostility in a smaller environment, such as an elementary school, than in a larger environment, such as a college campus. The effect of a racial incident in the private and personal environment of an individual's dormitory room may differ from the effect of the same incident in a student center or dormitory lounge.

The identity, number, and relationships of the individuals involved will also be considered on a case-by-case basis. For example, racially based conduct by a teacher, even an "off-duty" teacher, may have a greater impact on a student than the same conduct by a school maintenance worker or another student. The effect of conduct may be greater if perpetrated by a group of students rather than by an individual student.

In determining whether a hostile environment exists, OCR investigators will also be alert to the possible existence at the recipient institution of racial incidents other than those alleged in the complaint and will obtain evidence about them to determine whether they contributed to a racially hostile environment or corroborate the allegations.

Finally, racial acts need not be targeted at the complainant in order to create a racially hostile environment. The acts may be directed at anyone. The harassment need not be based on the ground of the victim's or complainant's race, so long as it is racially motivated

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of his or her official duties or employment must be made on a case-by-case basis, taking into account such factors as the relationship between the parties and the time, location and context of the alleged harassment.

(e.g., it might be based on the race of a friend or associate of the victim). Additionally, the harassment need not result in tangible injury or detriment to the victims of the harassment.

If OCR finds that a hostile environment existed under these standards, then it will proceed to determine whether the recipient received notice of the harassment, and whether the recipient took reasonable steps to respond to the harassment.

Notice

Though the recipient may not be responsible directly for all harassing conduct, the recipient does have a responsibility to provide a nondiscriminatory educational environment. If discriminatory conduct causes a racially hostile environment to develop that affects the enjoyment of the educational program for the student(s) being harassed, and if the recipient has actual or constructive notice of the hostile environment, the recipient is required to take appropriate responsive action. This is the case regardless of the identity of the person(s) committing the harassment—a teacher, a student, the grounds crew, a cafeteria worker, neighborhood teenagers, a visiting baseball team, a guest speaker, parents, or others. This is also true regardless of how the recipient received notice. So long as an agent or responsible employee of the recipient received notice, that notice will be imputed to the recipient.

A recipient can receive notice in many different ways. For example, a student may have filed a grievance or complained to a teacher about fellow students racially harassing him or her. A student, parent, or other individual may have contacted other appropriate personnel, such as a principal, campus security, an affirmative action officer, or staff in the office of student affairs. An agent or responsible employee of the institution may have witnessed the harassment. The recipient may have received notice in an indirect manner, from sources such as a member of the school staff, a member of the educational or local community, or the media. The recipient also may have received notice from flyers about the incident(s) posted around the school.

In cases where the recipient did not have actual notice, the recipient may have had constructive notice. A recipient is charged with constructive notice of a hostile environment if, upon reasonably diligent inquiry in the exercise of reasonable care, it should have known of the discrimination. In other words, if the recipient could have found out about the harassment had it made a proper inquiry, and if the recipient should have made such an inquiry, knowledge of the harassment will be imputed to the recipient. A recipient also may be charged with constructive notice if it has notice of some, but not all, of the incidents involved in a particular complaint.

In some cases, the pervasiveness, persistence, or severity of the racial harassment may be enough to infer that the recipient had notice of the hostile environment (e.g., a racially motivated assault on a group of students). A finding that a recipient had constructive notice of a hostile environment meets the notice requirement of the analysis.

If the alleged harasser is an agent or employee of a recipient, acting within the scope of his or her official duties (i.e., such that the individual has actual or apparent authority over the students involved), then the individual will be considered to be acting in an agency capacity and the recipient will be deemed to have constructive notice of the harassment. If the recipient does not have a policy that prohibits the conduct of racial harassment, or does not have an accessible procedure by which victims of harassment can make their complaints known to appropriate officials, agency capacity—and thus constructive notice—is established.

The existence of both a policy and grievance procedure applicable to racial harassment (depending upon their scope, accessibility and clarity, and upon the acts of harassment) is relevant in the determination of agency capacity. A policy or grievance procedure applicable to harassment must be clear in the types of conduct prohibited in order for students to know and understand their rights and responsibilities. As discussed above, in the education context, the person from whose perspective the apparent authority of an agent or employee of a recipient must be evaluated is a reasonable student of the same age, intelligence and experience as the alleged victim of the harassment.

Finally, in order to find that the recipient had a duty to respond to notice of a racially hostile environment, OCR must examine the facts and circumstances to establish that the recipient knew or should have known that the conduct was of a racial nature or had sufficient information to conclude that it may have been racially based. OCR will consider whether the incident involved explicitly racial conduct or whether the circumstances indicate that, through symbols or other persuasive factors, the recipient should have recognized that the conduct was in fact, or was reasonably likely to have been, racial (e.g., the hanging of nooses, random violence against minorities, etc.).

Recipient's Response

Once a recipient has notice of a racially hostile environment, the recipient has a legal duty to take reasonable steps to eliminate it.[6] Thus, if OCR finds that the recipient took responsive action, OCR will evaluate the appropriateness of the responsive action by examining reasonableness, timeliness, and effectiveness. The appropriate response to a racially hostile environment must be tailored to redress fully the specific problems experienced at the institution as a result of the harassment. In addition, the responsive action must be reasonably calculated to prevent recurrence and ensure that participants are not restricted in their participation or benefits as a result of a racially hostile environment created by students or nonemployees.

In evaluating a recipient's response to a racially hostile environment, OCR will examine disciplinary policies, grievance policies, and any applicable anti-harassment policies.[7] OCR also will determine whether the responsive action was consistent with any established institutional policies or with responsive action taken with respect to similar incidents.

Examples of possible elements of appropriate responsive action include imposition of disciplinary measures, development and dissemination of a policy prohibiting racial harassment, provision of grievance or complaint procedures, implementation of racial awareness training, and provision of counseling for the victims of racial harassment.

Conclusion

OCR will investigate allegations of racial incidents where the incidents fall within its jurisdiction. Based on the facts and circumstances of each case, OCR will use either or both the standard different treatment analysis and the hostile environment analysis to determine whether title VI has been violated.

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[6] Of course, a recipient can and should investigate and respond to individual racial incidents if and as they arise—regardless of whether any particular incident is severe enough by itself to establish a racially hostile environment under Title VI. By doing so in a timely and thorough manner, the recipient might prevent the development of a racially hostile environment.

[7] Of course, OCR cannot endorse or prescribe speech or conduct codes or other campus policies to the extent that they violate the First Amendment to the United States Constitution.

If OCR determines that an agent or employee, acting within the scope of his or her employment, treated someone differently on the basis of race, color, or national origin without a legitimate, nondiscriminatory reason for the treatment (i.e., direct different treatment), then OCR will conclude that Title VI was violated. If OCR determines that a racially hostile environment exists at a recipient, the recipient had notice of it, and the recipient failed to take adequate action in response to the hostile environment, OCR will also find a violation. If OCR determines that a hostile environment was not established, or that a hostile environment was established but that the recipient either (1) did not have notice of it; or (2) had notice of it and took adequate action in response, OCR will find no violation.

Appendix—Racial Incidents and Harassment Against Students—Compendium of Legal Resources

This compendium provides an outline summarizing key legal resources (including statutes, regulations, cases, and letters of findings) to serve as a reference for the Office for Civil Rights (OCR) staff in investigating possible discrimination against students based on racial incidents—including incidents involving allegations of harassment on the basis of race—that occur at educational institutions. It is intended to be used in conjunction with the investigative guidance on racial incidents and harassment, and follows the same general outline as that guidance.[1]

The investigation and analysis of cases under title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, (title VI) relies, to a large extent, on case law developed under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, which prohibits discrimination on the basis of race, color, national origin, sex, and religion in employment.[2] See *Dillon County District No. 1 and South Carolina State Department of Education*, No. 84–VI–16 (Civil Rights Reviewing Auth. 1987); *United States* v. *LULAC*, 793 F.2d 636, 648–49 (5th Cir. 1986); *Georgia State Conference of Branches of NAACP* v. *Georgia*, 775 F.2d 1403, 1417 (11th Cir. 1985); and *NAACP* v. *Medical Center, Inc.*, 657 F.2d 1322 (3d Cir. 1981). See also, generally, EEOC Revised Enforcement Guidance on Recent Developments in Disparate Treatment Theory, No. N–915.002 (July 14, 1992).[3]

I. Jurisdiction

OCR must first decide whether it has jurisdiction over a claim involving racial incidents or harassment. OCR has jurisdiction if the complaint alleges that the racially based conduct occurred in the context of an operation of an elementary, secondary, or postsecondary school or institution, or other entity that is a recipient of Federal funds.

A. Title VI Prohibits Race Discrimination in Federally Funded Programs and Activities

Title VI prohibits race discrimination in programs and activities that receive Federal financial assistance. See also 34 CFR part 100 (regulations effectuating provisions of title VI).

B. OCR Has Institution-Wide Jurisdiction

Under the Civil Rights Restoration Act of 1987,[4] OCR generally has institution-wide jurisdiction over a recipient of Federal funds.[5]

C. Allegation Must Relate to an "Operation" of Recipient

Discrimination must be alleged in an "operation" of a recipient. See 42 U.S.C. 2000d–4a.

D. Specific Discriminatory Actions Prohibited

The regulations implementing Title VI include provisions prohibiting discrimination based on race in terms of:

(1) Services: Provision of services or other benefits. 34 CFR 100.3(b)(1)(iii).

(2) Privileges: Restriction of an individual's enjoyment of an advantage or privilege enjoyed by others. 34 CFR 100.3(b)(1)(iv).

(3) Participation: Opportunities to participate. 34 CFR 100.3(b)(1)(vi).

The regulations also include a general, catchall provision prohibiting race discrimination. See 34 CFR 100.3(b)(5).

II. Standard Different Treatment by Agents or Employees

As with other claims of race discrimination under Title VI, OCR should first apply a standard different (disparate) treatment analysis to allegations involving racial incidents perpetrated by representatives of recipients. In doing so, OCR must determine whether a student was treated differently than other students on the basis of race without a legitimate, nondiscriminatory, nonpretextual reason.

The basic elements of a different treatment case were set out by the U.S. Supreme Court in *McDonnell Douglas Corp.* v. *Green*, 411 U.S. 792 (1973) (focusing on indirect evidence of such treatment), a Title VII employment case. See also *United States Postal Service Board of Governors* v. *Aikens*, 460 U.S. 711 (1983); *Texas Department of Community Affairs* v. *Burdine*, 450 U.S. 248 (1981).

A. Prima Facie Case

(1) Identify the racial group to which the complainant belongs for purposes of differential treatment analysis.

(2) Determine whether the complainant was treated differently than similarly situated members of other racial groups with regard to a service, benefit, privilege, etc., from the recipient. See, e.g., *University of Pittsburgh*, OCR Case No. 03–89–2035 (campus police treated black students more severely than white students); *Roosevelt Warm Springs Institute for Rehabilitation*, OCR Case No. 04–89–3003 (similar).

B. Rebuttal of Prima Facie Case by Showing Legitimate, Nondiscriminatory Reason for Treatment

After a prima facie case of race discrimination has been established against the recipient, OCR must then determine whether the recipient had a legitimate, nondiscriminatory reason for its action(s) which would rebut the prima facie case against it.

C. Recipient's Rebuttal Overcome With Showing of Pretext

If the prima facie case of discrimination is rebutted, OCR must

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[1] The investigation guidance is directed at conduct that constitutes race discrimination under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., (Title VI), and not at the content of speech. In cases in which verbal statements or other forms of expression are involved, consideration will be given to any implication of the First Amendment to the United States Constitution. In such cases, regional staff will consult with headquarters.

The term "race" shall be used throughout this compendium to refer to all forms of discrimination prohibited by Title VI—i.e., race, color, and national origin.

[2] Note that in addition to racial incidents/harassment cases, many sexual harassment cases are cited throughout this compendium—because the legal standards and theories applicable to these two different types of discrimination are similar. See *Drinkwater* v. *Union Carbide Corp.*, 904 F.2d 853, 859–60 (3d Cir. 1990) (both racial and sexual harassment are actionable based on right to nondiscriminatory environment).

[3] Of course, OCR will consider the differences between the contexts of employment and education.

[4] See 42 U.S.C. 2000d–4 (1988) (the section which amends Title VI).

[5] Note, however, that the Waggoner Amendment, 20 U.S.C. 1144(b), prohibits Federal agencies from directing or controlling the membership activities or internal operations of privately funded fraternities and sororities whose facilities are not owned by the recipient. This provision does not bar OCR from regulating recipients with respect to other activities of these groups.

next determine whether the recipient's asserted reason for its action(s) is a mere pretext for discrimination. Ultimately, however, the weight of the evidence must convince OCR that actual discrimination occurred. See *St. Mary's Honor Center* v. *Hicks*, 113 S.Ct. 2742 (1993) (under title VII disparate treatment analysis, ultimate burden of persuasion regarding intentional discrimination remains at all times with plaintiff).

III. Hostile Environment Analysis

A violation of Title VI may be found if racial harassment is severe, pervasive, or persistent so as to constitute a hostile or abusive educational environment. See *Meritor Savings Bank* v. *Vinson*, 477 U.S. 57 (1986) (sets similar standard for sexual harassment under title VII) (relying on *Rogers* v. *EEOC*, 454 F.2d 234, 238 (5th Cir. 1971) (race discrimination can consist of an "environment heavily charged with ethnic or racial discrimination"), cert. denied, 406 U.S. 957 (1972)); *Harris* v. *Forklift Systems, Inc.*, 114 S.Ct. 367 (1993) (reiterating *Meritor* standard). Accord, *Hicks* v. *Gates Rubber Co.*, 833 F.2d 1406, 1412 (10th Cir. 1987); *Snell* v. *Suffolk County*, 782 F.2d 1094, 1102 (2d Cir. 1986); *Gray* v. *Greyhound Lines, East*, 545 F.2d 169, 176 (D.C. Cir. 1976) (noting with approval that EEOC has consistently held that title VII gives employee right to " 'a working environment free of racial intimidation' "). See also, e.g., *Defiance College*, OCR Case No. 05–90–2024 (violation where college was aware of "repeated" and "patently offensive" verbal and physical racial harassment committed by students).

Whether conduct constitutes a hostile environment must be determined from the totality of the circumstances. See *Harris* v. *Forklift Systems, Inc.*, 114 S.Ct. 367 (1993) (under title VII, factors to consider may include frequency and severity of discriminatory conduct, whether it is physically threatening or humiliating or merely offensive, and whether it interferes with work performance; psychological harm is not required but may be taken into account like any other relevant factor); *Johnson* v. *Bunny Bread*, 646 F.2d 1250, 1257 (8th Cir. 1981) (court examined nature, frequency, and content of racial harassment, as well as identities of perpetrators and victims). See also *Snell*, 782 F.2d at 1103 (citing *Henson* v. *City of Dundee*, 682 F.2d 897, 904 (11th Cir. 1982)) (same standard for sexual harassment).

A. Harassment Must Be Severe, Pervasive or Persistent

1. Pervasive or Persistent

Where the harassment is not sufficiently severe, it must consist of more than casual or isolated racial incidents to create a racially hostile environment. Compare *Trenton Junior College*, OCR Case No. 07–87–6006 (title VI violated where college failed to provide adequate security for black basketball players who were subjected to a break-in, cross-burning, and placement of raccoon skins at their campus residences) with *University of California, Santa Cruz*, OCR Case No. 09–91–6002 (no finding of racial harassment where OCR found only isolated individual incidents over three-year period). See also, e.g., *Snell*, 782 F.2d at 1103 ("To establish a hostile atmosphere, * * * plaintiffs must prove more than a few isolated incidents of racial enmity * * *. Casual comments, or accidental or sporadic conversation, will not trigger equitable relief"); *Gates Rubber Co.*, 833 F.2d 1406; *Powell* v. *Missouri State Highway and Transportation Department*, 822 F.2d 798 (8th Cir. 1986); *Moylan* v. *Maries County*, 792 F.2d 746 (8th Cir. 1986); *Henson*, 682 F.2d at 904 (quoting *Rogers*, 454 F.2d at 238).

OCR and Federal courts have found a hostile environment where there was a pattern or practice of harassment, or where the harassment was sustained and nontrivial. See, e.g., *Wapato School District No. 207*, OCR Case No. 10–82–1039 (Title VI violated where teacher repeatedly treated minority students in racially derogatory manner). Compare *Walker* v. *Ford Motor Co.*, 684 F.2d 1355 (11th Cir. 1982) (hostile environment where use of derogatory terms was "repeated, continuous, and prolonged") with *Gilbert* v. *City of Little Rock*, 722 F.2d 1390 (8th Cir. 1983) (hostile environment not created by isolated and allegedly unrelated racial slurs), cert. denied, 466 U.S. 972 (1984).

2. Severe

The severity of individual incidents must also be considered. See, e.g., *Vance* v. *Southern Bell Telephone and Telegraph Co.*, 863 F.2d 1503, 1510–11 (11th Cir. 1989) (determination whether conduct is "severe and pervasive" does not turn solely on number of incidents; fact-finder must examine gravity as well as frequency) (decided under 42 U.S.C. 1981); *Carrero* v. *New York City Housing Authority*, 890 F.2d 569, 578 (2d Cir. 1989) ("It is not how long the * * * obnoxious course of conduct lasts. The offensiveness of the individual actions * * * is also a factor to be considered.").

Generally, the severity of the incidents needed to establish a racially hostile environment varies inversely with their pervasiveness or persistence. See EEOC Policy Guidance on Current Issues of Sexual Harassment, No. N–915.050 (Mar. 19, 1990) ("the more severe the harassment, the less need to show a repetitive series of incidents").

a. Special mission and duties of educational institutions. The unique setting and mission of an educational institution must be taken into account when OCR evaluates the severity of racial harassment under title VI. School officials have a duty to provide a nondiscriminatory environment conducive to learning. See generally 34 CFR part 100 (regulations prohibiting any form of race discrimination which interferes with educational programs or activities under title VI).

b. Characteristics and circumstances of victim—especially race and age. OCR must take into account the characteristics and circumstances of the victim on a case-by-case basis—particularly the victim's race and age—when evaluating the severity of racial incidents at an educational institution. See *Harris* v. *International Paper Co.*, 765 F. Supp. 1509, 1515–16 (D. Me. 1991) (the appropriate standard to apply in a "hostile environment racial harassment case is that of a 'reasonable black person' "). See also, e.g., *Ellison* v. *Brady*, 924 F.2d 872 (9th Cir. 1991) (discussing differences in perspectives of men and women toward sexual harassment, and need to examine harassment from perspective of reasonable victim with characteristic upon which harassment was based).

The reasonable person standard as applied to children is "that of a reasonable person of like age, intelligence, and experience under like circumstances." Restatement (2d), Torts, Section 283A (1965) (Comment b: "The special standard to be applied in the case of children arises out of the public interest in their welfare and protection * * * "). See also, e.g., *Honeycutt* v. *City of Wichita*, 247 Kan. 250, 796 P.2d 549 (Kan. 1990) (adopting Restatement standard); *Standard* v. *Shine*, 278 S.C. 337, 295 S.E.2d 786 (S.C. 1982) (same); *Camerlinck* v. *Thomas*, 209 Neb. 843, 312 N.W.2d 260 (Neb. 1981) (same).

c. Nature of incident. The nature of the incident(s) should also be considered. See, e.g., *Vance* v. *Southern Bell Telephone and Telegraph Co.*, 863 F.2d at 1506–10 (hostile environment created where noose was hung twice at employee's workstation); *Watts* v. *New York City Police Department*, 724 F.

Supp. 99, 105 (S.D.N.Y. 1989) (same, based on two sexual assaults).

A single incident that is sufficiently severe may establish a racially hostile environment. See EEOC Policy Guidance on Current Issues of Sexual Harassment, No. N–915.050 (Mar. 19, 1990) and cases cited therein; *Barrett* v. *Omaha National Bank*, 584 F. Supp. 22 (D. Neb. 1983), aff'd, 726 F.2d 424 (8th Cir. 1984) (sexually hostile environment established by sexual assault).

d. Size of recipient and location of incidents. The size of the recipient and the location of the incidents also may be important.

e. Identity of individuals involved. The identity, number, and relationships of the individuals involved will also be considered on a case-by-case basis. See, e.g., *Wapato School District No. 207*, OCR Case No. 10–82–1039 (racial harassment of students by teacher was particularly opprobrious).

f. Other incidents at the recipient. OCR will also consider other racial incidents at the institution. See, e.g., *Midwest City-Del City Public Schools*, OCR Case No. 06–92–1012 (finding of racially hostile environment based in part on several racial incidents at school which occurred shortly before incidents in complaint).

g. Harassment need not be directed specifically at complainant or tangibly harm complainant or victim. The regulations implementing Title VI provide that a complaint may be filed by "[a]ny person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this part." 34 CFR 100.7(b). Thus, in hostile environment cases, the harassment need not be targeted specifically at the individual complainant. See *Waltman* v. *International Paper Co.*, 875 F.2d 468, 477 (5th Cir. 1989) (all sexual graffiti in office, not just that directed at plaintiff, was relevant to plaintiff's claim); *Hall* v. *Gus Construction Co.*, 842 F.2d 1010, 1015 (8th Cir. 1988) (evidence of sexual harassment directed at others is relevant to show hostile environment); *Gates Rubber Co.*, 833 F.2d at 1415 ("one of the critical inquiries in a hostile environment claim must be the *environment*" as a whole) (emphasis in original); *Walker* v. *Ford Motor Co.*, 684 F.2d 1355, 1358–59 (11th Cir. 1982) hostile environment established where racial harassment made plaintiff "feel unwanted and uncomfortable in his surroundings," even though it was not directed at him).

The harassment need not be based on the ground of the complainant's or victim's race, so long as it is racially motivated. See, e.g., *Center Grove Community School*, OCR Case No. 15–91–1168 (title VI violated where white girl was forced to withdraw from all-white school, as result of harassment by classmates which included note criticizing her association with black student at another school).

To establish a hostile environment, harassment need not result in a tangible injury or detriment to the complainant or the victim of the harassment. *Vinson*, 477 U.S. at 64. See also, e.g., *Harris* v. *Forklift Systems, Inc.*, 114 S.Ct. at 371 (under title VII several factors are considered including whether behaviors interfere with work performance; psychological harm is not required but may be taken into account like any other relevant factor); *Gilbert*, 722 F.2d at 1394 (environment "which significantly and adversely affects the psychological well-being of an employee because of his or her race" is enough to constitute title VII violation); *Bundy* v. *Jackson*, 641 F.2d 934, 943–45 (D.C. Cir. 1981) (protection against race and sex discrimination extends to "psychological and emotional work environment").

B. Notice

A recipient has a duty to provide a nondiscriminatory educational environment, but it must somehow receive notice of racial harassment in order to be found responsible for it. See *Vinson*, 477 U.S. at 72; see also *Steele* v. *Offshore Shipbuilding, Inc.*, 867 F.2d 1311 (11th Cir. 1989); *Lipsett* v. *University of Puerto Rico*, 864 F.2d 881 (1st Cir. 1988).

1. Actual Notice

A recipient may be found liable for racial harassment if it has actual knowledge of the racially offensive behavior or actions. See, e.g., *Hunter* v. *Allis-Chalmers Corp.*, 797 F.2d 1417 (7th Cir. 1986) (liability exists if management-level employees were aware of barrage of offensive conduct); *Katz* v. *Dole*, 709 F.2d 251 (4th Cir. 1983) (actual knowledge where victim complains of harassment to appropriate authorities); *Henson* v. *City of Dundee*, 682 F.2d 897, 904 (11th Cir. 1982).

2. Constructive Notice

A recipient may be found liable where it reasonably should have known of the harassment—e.g., because the harassment was so pervasive that its awareness may be inferred. See *Paroline* v. *Unisys Corp.*, 879 F.2d 100 (4th Cir. 1989) (liability may be imputed where employer knew or should have known about prior conduct of harasser toward other women), vacated in part on other grounds, 900 F.2d 27 (4th Cir. 1990); *Yates* v. *Avco Corp.*, 819 F.2d 630 (6th Cir. 1987) (constructive notice where employee harassed women on a daily basis); *Waltman*, 875 F.2d 468 (possibility of constructive notice where sexual graffiti existed in numerous locations); *Vance* v. *Southern Bell Telephone and Telegraph Co.*, 863 F.2d at 1510–11; *Swentek* v. *USAir, Inc.*, 830 F.2d 552 (4th Cir. 1987).

If the alleged harasser is an agent or employee of a recipient, acting within the scope of his or her official duties (i.e., such that the individual has actual or apparent authority over the students involved), then the individual will be considered to be acting in an agency capacity and the recipient will be deemed to have constructive notice of the harassment. See, e.g., *Kauffman* v. *Allied Signal, Inc., Autolite Division*, 970 F.2d 178 (6th Cir.) ("scope of employment" standard for holding employers liable for supervisory harassment is based on traditional agency principles, such as when and where harassment took place, and whether it was foreseeable), cert. denied, 113 S.Ct. 831 (1992). See also EEOC Policy Guidance on Current Issues of Sexual Harassment, N–915.050 (Mar. 19, 1990) (apparent authority exists where third parties reasonably believe that actions of supervisor represent exercise of authority possessed by virtue of employer's conduct).[6]

In evaluating whether constructive notice should be imputed to a recipient, the availability, coverage and public dissemination of antidiscrimination policies and grievance procedures for students will be considered in determining whether the recipient has made a sufficient effort to become aware of racial incidents if and when they occur. See *Meritor Savings Bank*, 477 U.S. at 72–73 (existence of uninvoked grievance procedures and policies against discrimination is relevant to issue of employer liability for sexual harassment, but not dispositive).

C. Recipient's Response

1. Duty to Take Reasonable Steps to End Harassment

Once a recipient has notice of a racially hostile environment, it has a duty to take reasonable steps to eliminate it. If it fails to respond adequately to the hostile environment, then the recipient may be found to have

[6] As discussed supra, in the education context, the person from whose perspective the apparent authority of an agent or employee of a recipient must be evaluated is a reasonable student of the same age, intelligence and experience as the alleged victim of the harassment.

violated title VI. See, e.g., *California State University, Chico*, OCR Case No. 09–89–2106 (inadequate response to racial harassment where university had no written grievance procedure and failed to interview most of the individuals involved); *Township High School District No. 214*, OCR Case No. 05–82–1097 (OCR found violation where school district failed to take adequate steps to correct repeated racial harassment by students, of which employees were aware). See also, e.g., *Snell* v. *Suffolk County*, 782 F.2d 1094 (2d Cir. 1986) (responsibility depends on gravity of harm, nature of work environment, and resources available); *Hall* v. *Gus Construction Co., Inc.*, 842 F.2d 1010 (8th Cir. 1988) (employer will be liable for failing to discover what is going on and to take remedial steps when actions are so numerous, egregious, and concentrated as to add up to campaign of harassment); *Paroline*, 879 F.2d 100 (4th Cir. 1989); *Henson* v. *City of Dundee*, 682 F.2d 897, 904 (11th Cir. 1982).

2. Response or Remedy Should Redress Actual Problems

The appropriate response or remedy for a hostile environment should be tailored to redress the specific problems experienced at the institution. See, e.g., *Trenton Junior College*, OCR Case No. 07–87–6006 (region developed remedial plan with college that included staff training on racial harassment, payment of compensation to harassed students and individuals who assisted the students in arranging for their safety, implementation of special efforts—including financial aid—to recruit black students, and development of plan for handling future harassment complaints).

3. Response Must Reasonably Attempt to Prevent Recurrence

The responsive action taken by a recipient must be reasonably calculated to prevent recurrence and ensure that individuals are not restricted in their participation or benefits as a result of a racially hostile environment created by students or non-employees. See, e.g., *Brooms* v. *Regal Tube Co.*, 881 F.2d 412 (7th Cir. 1989) (response must be reasonably calculated to prevent further harassment under particular facts and circumstances of case at time allegations are made; courts should not focus solely on whether remedial activity ultimately succeeded, but should determine whether total response was reasonable); *Waltman* v. *International Paper Co.*, 875 F.2d 468, 476 (5th Cir. 1989) (response must be reasonably calculated to halt harassment); *Bundy* v. *Jackson*, 641 F.2d 934 (D.C. Cir. 1981) (employer liable where supervisor had full notice of harassment and did nothing to stop or investigate practice; employer must take all necessary steps to investigate and correct harassment—including warnings, appropriate discipline, and other means of preventing harassment).

[FR Doc. 94–5531 Filed 3–9–94; 8:45 am]
BILLING CODE 4000–01–P

federal register

Thursday
March 10, 1994

Part XI

Department of Agriculture

Cooperative State Research Service

Committee of Nine; Meeting; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.
Date: May 10–11, 1994, May 12, 1994.
Time: 8 a.m. to 5 p.m., 8 a.m.–Noon.
Place: Room 1066 South Building, 14th and Independence Avenue SW., USDA, CSRS, Washington, DC 20250.
Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.
Comments: The public may file written comments before or after the meeting with the contact person listed below.
Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact Person for Agenda and More Information: Dr. Walter R. Woods, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research Service, room 346, Aerospace Building, Ag Box 2230, Washington, DC 20250–2230, Telephone: 202–401–6040.

Done at Washington, DC, this 2nd day of March 1994.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 94–5576 Filed 3–9–94; 8:45 am]
BILLING CODE 3410–22–M

federal register

Thursday
March 10, 1994

Part XII

Delaware River Basin Commission

18 CFR Part 401

Amendments to Administrative Manual—Rules of Practice and Procedure; Nonpoint Sources of Pollution; Special Protection Waters; Final Rule and Notice

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 401

Amendments to Administrative Manual—Rules of Practice and Procedure

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its February 23, 1994 business meeting, the Delaware River Basin Commission amended its Administrative Manual—Rules of Practice and Procedure relating to the control of nonpoint sources of pollution in the drainage area to classified Special Protection Waters.

By the same action, the Commission amended its Comprehensive Plan, Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations. Supplementary background information and a summary of the amendments to the Comprehensive Plan, Water Code and Water Quality Regulations are published elsewhere in this issue of the **Federal Register**. Those amendments address new nonpoint sources on a project-by-project basis through the Commission's project review process under section 3.8 of the Delaware River Basin Compact as well as any other activities the Commission believes may generate increased nonpoint source pollution loads which could have a substantial impact on Special Protection Waters. In addition, the amendments address new and existing nonpoint sources on a priority watershed basis. For priority watersheds, watershed nonpoint source management plans will be developed and implemented. Finally, the amendments encourage the development of watershed management plans prepared voluntarily and independently from these regulations. Processes to identify priority watersheds and develop watershed nonpoint source management plans are included in the amendments, as are implementation policies and exceptions.

The amendments to the Rules of Practice and Procedure add a new category to those now required to be submitted to the Commission for review and approval under section 3.8 of the Compact: Any project that the Executive Director may specially direct by notice to the project sponsor or land owner as having a potential substantial water quality impact on waters classified as Special Protection Waters.

EFFECTIVE DATE: June 1, 1994.

ADDRESSES: Copies of the Commission's Administrative Manual—Rules of Practice and Procedure are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission: Telephone (609) 883–9500 X203.

SUPPLEMENTARY INFORMATION: The Commission held public hearings on the proposed amendments on June 16, 1993 and June 22, 1993 as noticed in the April 9, 1993 and June 16, 1993 issues of the **Federal Register** (Vol. 58, No. 67 and Vol. 58, No. 114). Based upon testimony received and considerable deliberation, the Commission has amended its Administrative Manual—Rules of Practice and Procedure.

List of Subjects in 18 CFR Part 401

Administrative practice and procedure, Environmental impact statements, Freedom of information, Water pollution control, Water resources.

18 CFR Part 401 is amended as follows:

SUBCHAPTER A—ADMINISTRATIVE MANUAL

PART 401—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 401 continues to read as follows:

Authority: Delaware River Basin Compact, 75 Stat. 688.

2. Section 401.35(b)(18) is added to read as follows:

§ 401.35 Classification of projects for review under section 3.8 of the Compact.

(b) * * *

(18) Any other project that the Executive Director may specially direct by notice to the project sponsor or land owner as having a potential substantial water quality impact on waters classified as Special Protection Waters.

* * * * *

Delaware River Basin Compact, 75 Stat. 688.

Dated: February 25, 1994.

Susan M. Weisman,

Secretary.

[FR Doc. 94–5608 Filed 3–9–94; 8:45 am]

BILLING CODE 6360–01–P

DELAWARE RIVER BASIN COMMISSION

Amendments to Comprehensive Plan, Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its February 23, 1994 business meeting, the Delaware River Basin Commission amended its Comprehensive Plan, Water Code and Water Quality Regulations relating to the control of nonpoint sources of pollution in the drainage area to classified Special Protection Waters. The amendments address new nonpoint sources on a project-by-project basis through the Commission's project review process under section 3.8 of the Delaware River Basin Compact as well as any other activities the Commission believes may generate increased nonpoint source pollution loads which could have a substantial impact on Special Protection Waters. In addition, the amendments address new and existing nonpoint sources on a priority watershed basis. For priority watersheds, watershed nonpoint source management plans will be developed and implemented. Finally, the amendments encourage the development of watershed management plans prepared voluntarily and independently from these regulations. Processes to identify priority watersheds and develop watershed nonpoint source management plans are included in the amendments, as are implementation policies and exceptions.

By the same action, the Commission amended its Administrative Manual—Rules of Practice and Procedure by the addition of a new category to those now required to be submitted to the Commission for review and approval under section 3.8 of the Compact: Any project that the Executive Director may specially direct by notice to the project sponsor or land owner as having a potential substantial water quality impact on waters classified as Special Protection Waters. That amendment is published elsewhere in the Rules and Regulations section of this issue of the **Federal Register**.

EFFECTIVE DATE: June 1, 1994.

ADDRESSES: Copies of the Commission's Water Code of the Delaware River Basin, Administrative Manual—Part III Water Quality Regulations, and the full text of the amendments are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission: Telephone (609) 883–9500 X203.

SUPPLEMENTARY INFORMATION: The Commission held public hearings on the proposed amendments on June 16, 1993 and June 22, 1993 as noticed in the April 9, 1993 and June 16, 1993 issues of the **Federal Register** (Vol. 58, No. 67 and Vol. 58, No. 114). Based upon testimony received and considerable deliberation, the Commission has amended its Comprehensive Plan, Water Code of the Delaware River Basin and Administrative Manual—Part III Water Quality Regulations.

Delaware River Basin Compact, 75 Stat. 688

Dated: February 25, 1994.

Susan M. Weisman,

Secretary.

[FR Doc. 94–5607 Filed 3–9–94; 8:45 am]

BILLING CODE 6360–01–P

federal register

Thursday
March 10, 1994

Part XIII

The President

Executive Order 12902—Energy Efficiency and Water Conservation at Federal Facilities

Federal Register
Vol. 59, No. 47
Thursday, March 10, 1994

Presidential Documents

Title 3—

The President

Executive Order 12902 of March 8, 1994

Energy Efficiency and Water Conservation at Federal Facilities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Energy Policy and Conservation Act (Public Law 94–163, 89 Stat. 871, 42 U.S.C. 6201 *et seq.*) as amended by the Energy Policy Act of 1992 (Public Law 102–486, 106 Stat. 2776) and section 301 of title 3, United States Code, I hereby order as follows:

PART 1—DEFINITIONS

For the purposes of this order:

Section 101. The "Act" means the Federal energy management provisions of the Energy Policy and Conservation Act, as amended by the Energy Policy Act of 1992.

Sec. 102. The term "comprehensive facility audit" means a survey of a building or facility that provides sufficiently detailed information to allow an agency to enter into energy or water savings performance contracts or to invite inspection and bids by private upgrade specialists for direct agency-funded energy or water efficiency investments. It shall include information such as the following:

(a) the type, size, energy use, and performance of the major energy using systems and their interaction with the building envelope, the climate and weather influences, usage patterns, and related environmental concerns;

(b) appropriate energy and water conservation maintenance and operating procedures;

(c) recommendations for the acquisition and installation of energy conservation measures, including solar and other renewable energy and water conservation measures; and

(d) a strategy to implement the recommendations.

Sec. 103. The term "cost-effective" means providing a payback period of less than 10 years, as determined by using the methods and procedures developed pursuant to 42 U.S.C. 8254 and 10 CFR 436.

Sec. 104. The term "demand side management" refers to utility-sponsored programs that increase energy efficiency and water conservation or the management of demand. The term includes load management techniques.

Sec. 105. The term "energy savings performance contracts" means contracts that provide for the performance of services for the audit, design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.

Sec. 106. The term "agency" means an executive agency as defined in 5 U.S.C. 105. For the purpose of this order, military departments, as defined in 5 U.S.C. 102, are covered under the auspices of the Department of Defense.

Sec. 107. The term "Federal building" means any individual building, structure, or part thereof, including the associated energy or water-consuming support systems, which is constructed, renovated, or purchased in whole or in part for use by the Federal Government and which consumes energy

or water. In any provision of this order, the term "Federal building" shall also include any building leased in whole or in part for use by the Federal Government where the term of the lease exceeds 5 years and the lease does not prohibit implementation of the provision in question.

Sec. 108. The term "Federal facility" means any building or collection of buildings, grounds, or structure, as well as any fixture or part thereof, which is owned by the United States or any Federal agency or which is held by the United States or any Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation. In any provision of this order, the term "Federal facility" shall also include any building leased in whole or in part for use by the Federal Government where the term of the lease exceeds 5 years and the lease does not prohibit implementation of the provision in question.

Sec. 109. The term "franchising" means that an agency would provide the services of its employees to other agencies on a reimbursable basis.

Sec. 110. The term "gainsharing" refers to incentive systems that allocate some portion of savings resulting from gains in productivity to the workers who produce those gains.

Sec. 111. The term "industrial facilities" means any fixed equipment, building, or complex for the production of goods that uses large amounts of capital equipment in connection with, or as part of, any process or system, and within which the majority of energy use is not devoted to the heating, cooling, lighting, ventilation, or to service the hot water energy load requirements of the building.

Sec. 112. The term "life cycle cost" refers to life cycle cost calculated pursuant to the methodology established by 10 CFR 436.11.

Sec. 113. The term "prioritization survey" means a rapid assessment that will be used by an agency to identify those facilities with the highest priority projects based on the degree of cost effectiveness and to schedule comprehensive facility audits prior to project implementation. The prioritization survey shall include information such as the following:

(a) the type, size, energy and water use levels of the major energy and water using systems in place at the facility; and

(b) the need, if any, for acquisition and installation of cost-effective energy and water conservation measures, including solar and other renewable energy resource measures.

Sec. 114. The term "shared energy savings contract" refers to a contract under which the contractor incurs the cost of implementing energy savings measures (including, but not limited to, performing the audit, designing the project, acquiring and installing equipment, training personnel, and operating and maintaining equipment) and in exchange for providing these services, the contractor gains a share of any energy cost savings directly resulting from implementation of such measures during the term of the contract.

Sec. 115. The term "solar and other renewable energy sources" includes, but is not limited to, agriculture and urban waste, geothermal energy, solar energy, and wind energy.

Sec. 116. The term "utility" means any person, State, or agency that is engaged in the business of producing or selling electricity or engaged in the local distribution of natural gas or water to any ultimate consumer.

PART 2—INTERAGENCY COORDINATION

Sec. 201. *Interagency Coordination.* The Department of Energy ("DOE") shall take the lead in implementing this order through the Federal Energy Management Program ("FEMP"). The Interagency Energy Policy Committee ("656 Committee") and the Interagency Energy Management Task Force ("Task Force") shall serve as forums to coordinate issues involved in implementing

energy efficiency, water conservation, and solar and other renewable energy in the Federal sector.

PART 3—AGENCY GOALS AND REPORTING REQUIREMENTS FOR ENERGY AND WATER EFFICIENCY IN FEDERAL FACILITIES

Sec. 301. *Energy Consumption Reduction Goals.* (a) Each agency shall develop and implement a program with the intent of reducing energy consumption by 30 percent by the year 2005, based on energy consumption per-gross-square-foot of its buildings in use, to the extent that these measures are cost-effective. The 30 percent reductions shall be measured relative to the agency's 1985 energy use. Each agency's implementation program shall be designed to speed the introduction of cost-effective, energy-efficient technologies into Federal facilities, and to meet the goals and requirements of the Act and this order.

(b) Each agency shall develop and implement a program for its industrial facilities in the aggregate with the intent of increasing energy efficiency by at least 20 percent by the year 2005 as compared to the 1990 benchmark, to the extent these measures are cost-effective, and shall implement all cost-effective water conservation projects. DOE, in coordination with the 656 Committee, shall establish definitions and appropriate indicators of energy and water efficiency, and energy and water consumption and costs, in Federal industrial facilities for the purpose of establishing a base year of 1990.

Sec. 302. *Energy and Water Surveys and Audits of Federal Facilities.* (a) *Prioritization Survey.* Each agency responsible for managing Federal facilities shall conduct a prioritization survey, within 18 months of the date of this order, on each of the facilities the agency manages. The surveys shall be used to establish priorities for conducting comprehensive facility audits.

(b) *Comprehensive Facility Audits.* Each agency shall develop and begin implementing a 10-year plan to conduct or obtain comprehensive facility audits, based on prioritization surveys performed under section 302(a) of this order.

(1) Implementation of the plan shall ensure that comprehensive facility audits of approximately 10 percent of the agency's facilities are completed each year. Agencies responsible for managing less than 100 Federal facilities shall plan and execute approximately 10 comprehensive facility audits per year until all facilities have been audited.

(2) Comprehensive audits of facilities performed within the last 3 years may be considered current for the purposes of implementation.

(3) "No-cost" audits, such as those outlined in section 501(c) of this order, shall be utilized to the extent practicable.

(c) *Exempt Facilities.* Because the mission within facilities exempt from the energy and water reduction requirements under the Act may not allow energy efficiency and water conservation in certain operations, actions shall be taken to reduce all other energy and water waste using the procedures described in the Act and this order. Each agency shall develop and implement a plan to improve energy and water efficiency in such exempt facilities. The prioritization surveys are intended to allow agencies to refine their designation of facilities as "exempt" or "industrial," so that only individual buildings in which industrial or energy-intensive operations are conducted remain designated as "exempt" or "industrial." Within 21 months of the date of this order, each agency shall report to FEMP and to the Office of Management and Budget ("OMB") the redesignations that the agency is making as a result of the prioritization surveys. Agencies may seek exemptions for their facilities pursuant to the Energy Policy and Conservation Act, as amended.

(d) *Leased Facilities.* Agencies shall conduct surveys and audits of leased facilities to the extent practicable and to the extent that the recommendations

of such surveys and audits could be implemented under the terms of the lease.

Sec. 303. *Implementation of Energy Efficiency and Water Conservation Projects.* (a) *Implementation of New Audit Recommendations.* Within 1 year of the date of this order, agencies shall identify, based on preliminary recommendations from the prioritization surveys required under section 302 of this order, high priority facilities to audit and shall complete the first 10 percent of the required comprehensive facility audits. Within 180 days of the completion of the comprehensive facility audit of each facility, agencies shall begin implementing cost-effective recommendations for installation of energy efficiency, water conservation, and renewable energy technologies for that facility.

(b) *Implementation of Existing Audits.* Within 180 days of the date of this order, agencies shall begin to implement cost-effective recommendations from comprehensive audits of facilities performed within the past 3 years, for installation of energy efficiency, water conservation, and renewable energy technologies.

Sec. 304. *Solar and Other Renewable Energy.* The goal of the Federal Government is to significantly increase the use of solar and other renewable energy sources. DOE shall develop a program for achieving this goal cost-effectively and, within 210 days of the date of this order, submit the program to the 656 Committee for review. DOE shall lead the effort to assist agencies in meeting this goal.

Sec. 305. *Minimization of Petroleum-Based Fuel Use in Federal Buildings and Facilities.* All agencies shall develop and implement programs to reduce the use of petroleum in their buildings and facilities by switching to a less-polluting and nonpetroleum-based energy source, such as natural gas or solar and other renewable energy sources. Where alternative fuels are not practical or cost-effective, agencies shall strive to improve the efficiency with which they use the petroleum. Each agency shall survey its buildings and facilities that utilize petroleum-based fuel systems to determine where the potential for a dual-fuel capability exists and shall provide dual-fuel capability where cost-effective and practicable.

Sec. 306. *New Space.* (a) *New Federal Facility Construction.* Each agency involved in the construction of a new facility that is to be either owned by or leased to the Federal Government shall:

(1) design and construct such facility to minimize the life cycle cost of the facility by utilizing energy efficiency, water conservation, or solar or other renewable energy technologies;

(2) ensure that the design and construction of facilities meet or exceed the energy performance standards applicable to Federal residential or commercial buildings as set forth in 10 CFR 435, local building standards, or a Btu-per-gross-square-foot ceiling as determined by the Task Force within 120 days of the date of this order, whichever will result in a lower life cycle cost over the life of the facility;

(3) establish and implement, within 270 days of the date of this order, a facility commissioning program that will ensure that the construction of such facilities meets the requirements outlined in this section before the facility is accepted into the Federal facility inventory; and

(4) utilize passive solar design and adopt active solar technologies where they are cost-effective.

(b) *New Leases For Existing Facilities.* To the extent practicable and permitted by law, agencies entering into leases, including the renegotiation or extension of existing leases, shall identify the energy and water consumption of those facilities and seek to incorporate provisions into each lease that minimize the cost of energy and water under a life cycle analysis, while maintaining or improving occupant health and safety. These requirements may include renovation of proposed space prior to or within the

first year of each lease. Responsible agencies shall seek to negotiate the cost of the lease, taking into account the reduced energy and water costs during the term of the lease.

(c) *Government-Owned Contractor-Operated Facilities.* All Government-owned contractor-operated facilities shall comply with the goals and requirements of this order. Energy and water management goals shall be incorporated into their management contracts.

Sec. 307. *Showcase Facilities.* (a) *New Building Showcases.* When an agency constructs at least five buildings in a year, it shall designate at least one building, at the earliest stage of development, to be a showcase highlighting advanced technologies and practices for energy efficiency, water conservation, or use of solar and other renewable energy.

(b) *Demonstrations in Existing Facilities.* Each agency shall designate one of its major buildings to become a showcase to highlight energy or water efficiency and also shall attempt to incorporate cogeneration, solar and other renewable energy technologies, and indoor air quality improvements. Selection of such buildings shall be based on considerations such as the level of nonfederal visitors, historic significance, and the likelihood that visitors will learn from displays and implement similar projects. Within 180 days of the date of this order, each agency shall develop and implement plans and work in cooperation with DOE and, where appropriate, in consultation with the General Services Administration ("GSA"), the Environmental Protection Agency ("EPA"), and other appropriate agencies, to determine the most effective and cost-effective strategies to implement these demonstrations.

Sec. 308. *Annual Reporting Requirements.* (a) As required under the Act, the head of each agency shall report annually to the Secretary of Energy and OMB, in a format specified by the Secretary and OMB after consulting with the 656 Committee. The report shall describe the agency's progress in achieving the goals of this order.

(b) The Secretary of Energy shall report to the President and the Congress annually on the implementation of this order. The report should provide information on energy and water use and cost data and shall provide the greatest level of detail practicable for buildings and facilities by energy source.

Sec. 309. *Report on Full Fuel Cycle Analysis.* DOE shall prepare a report on the issues involved in instituting life cycle analysis for Federal energy and product purchases that address the full fuel cycle costs, including issues concerning energy exploration, development, processing, transportation, storage, distribution, consumption, and disposal, and related impacts on the environment. The report shall examine methods for conducting life cycle analysis and implementing such analysis in the Federal sector and shall make appropriate recommendations. The report shall be forwarded to the President for review.

Sec. 310. *Agency Accountability.* One year after the date of this order, and every 2 years thereafter, the President's Management Council shall report to the President about efforts and actions by agencies to meet the requirements of this order. In addition, each agency head shall designate a senior official, at the Assistant Secretary level or above, to be responsible for achieving the requirements of this order and shall appoint such official to the 656 Committee. The 656 Committee shall also work to ensure the implementation of this order. The agency senior official and the 656 Committee shall coordinate implementation with the Federal Environmental Executive and Agency Environmental Executives established under Executive Order No. 12873.

PART 4—USE OF INNOVATIVE FINANCING AND CONTRACTUAL MECHANISMS

Sec. 401. *Financing Mechanisms.* In addition to available appropriations, agencies shall utilize innovative financing and contractual mechanisms, including, but not limited to, utility demand side management programs, shared energy savings contracts, and energy savings performance contracts, to meet the goals and requirements of the Act and this order.

Sec. 402. *Workshop for Agencies.* Within a reasonable time of the date of this order, the Director of OMB, or his or her designee, and the Task Force shall host a workshop for agencies regarding financing and contracting for energy efficiency, water efficiency, and renewable technology projects. Based on the results of that meeting, the Administrator, Office of Procurement Policy ("OFPP"), shall assist the Administrator of General Services and the Secretary of Energy in eliminating unnecessary regulatory and procedural barriers that slow the utilization of such audit, financing, and contractual mechanisms or complicate their use. All actions that are cost-effective shall be implemented through the process required in section 403 of this order.

Sec. 403. *Elimination of Barriers.* Agency heads shall work with their procurement officials to identify and eliminate internal regulations, procedures, or other barriers to implementation of the Act and this order. DOE shall develop a model set of recommendations that will be forwarded to the Administrator of OFPP in order to assist agencies in eliminating the identified barriers.

PART 5—TECHNICAL ASSISTANCE, INCENTIVES, AND AWARENESS

Sec. 501. *Technical Assistance.* (a) To assist Federal energy managers in implementing energy efficiency and water conservation projects, DOE shall, within 180 days of the date of this order, develop and make available through the Task Force:

(1) guidance explaining the relationship between water use and energy consumption and the energy savings achieved through water conservation measures;

(2) a model solicitation and implementation guide for innovative funding mechanisms referenced in section 401 of this order;

(3) a national list of companies providing water services in addition to the list of qualified energy service companies as required by the Act;

(4) the capabilities and technologies available through the national energy laboratories; and

(5) an annually-updated guidance manual for Federal energy managers that includes, at a minimum, new sample contracts or contract provisions, position descriptions, case studies, recent guidance, and success stories.

(b) The Secretary of Energy, in coordination with the Administrator of General Services, shall make available through the Task Force, within 180 days of the date of this order:

(1) the national list of qualified water and energy efficiency contractors for inclusion on a Federal schedule; and

(2) a model provision on energy efficiency and water conservation, for inclusion in new leasing contracts.

(c) Within 180 days of the date of this order, the Administrator of General Services shall:

(1) contact each utility that has an area-wide contract with GSA to determine which of those utilities will perform "no-cost" audits for energy efficiency and water conservation and potential solar and other renewable energy sources that comply with Federal life cycle costing procedures set forth in Subpart A, 10 CFR 436;

(2) for each energy and water utility serving the Federal Government, determine which of those utilities offers demand-side management services and incentives and obtain a list and description of those services and incentives; and

(3) prepare a list of those utilities and make that list available to all Federal property management agencies through the Task Force.

(d) Within 18 months of the date of this order, the Administrator of General Services, in consultation with the Secretary of Energy, shall develop procurement techniques, methods, and contracts to speed the purchase and installation of energy, water, and renewable energy technologies in Federal

facilities. Such techniques, methods, and contracts shall be designed to utilize both direct funding by the user agency, including energy savings performance contracting, and utility rebates. To the extent permitted by law, the Administrator of OFPP shall assist the Administrator of General Services and the Secretary of Energy by eliminating unnecessary regulatory and procedural barriers that would slow the implementation of such methods, techniques, or contracts or complicate their use.

(e) Agencies are encouraged to seek technical assistance from DOE to develop and implement solar and other renewable energy projects.

(f) DOE shall conduct appropriate training for Federal agencies to assist them in identifying and funding cost-effective projects. This training shall include providing software and other technical tools to audit facilities and identify opportunities. To the extent that resources are available, DOE shall work with utilities and the private sector to encourage their participation in Federal sector programs.

(g) DOE, in coordination with EPA, GSA, and the Department of Defense ("DOD"), shall develop technical assistance services for agencies to help identify energy efficiency, water conservation, indoor air quality, solar and other renewable energy projects, new building design, fuel switching, and life cycle cost analysis. These services shall include, at a minimum, a help line, computer bulletin board, information and education materials, and project tracking methods. Agencies shall identify technical assistance needed to meet the goals and requirements of the Act and this order and seek such assistance from DOE.

(h) The Secretary of Energy and the Administrator of General Services shall explore ways to stimulate energy efficiency, water conservation, and use of solar and other renewable energy sources and shall study options such as new building performance guidelines, life cycle value engineering, and designer/builder incentives such as award fees. The studies shall be completed within 270 days of the date of this order. The OFPP will issue guidance to agencies on life cycle value engineering within 6 months of the completion of the studies.

(i) The Secretary of Energy and the Administrator of General Services shall develop and distribute through the Task Force a model building commissioning program within 270 days of the date of this order.

(j) The lists, guidelines, and services in this section of the order shall be updated periodically.

Sec. 502. *Retention of Savings and Rebates.* (a) Within a reasonable time after the date of this order, the Director of OMB, along with the Secretary of Energy, the Secretary of Defense, and the Administrator of General Services, to the extent practicable and permitted by law, shall develop guidelines and implement procedures to allow agencies, in fiscal year 1995 and beyond, to retain utility rebates and incentives received by the agency and savings from energy efficiency and water conservation efforts as provided in section 152 of the Energy Policy Act of 1992 and 10 U.S.C. 2865 and 2866.

Sec. 503. *Performance Evaluations.* To recognize the responsibilities of facility managers, designers, energy managers, their superiors, and, to the extent practicable and appropriate, others critical to the implementation of this order, heads of agencies shall include successful implementation of energy efficiency, water conservation, and solar and other renewable energy projects in their position descriptions and performance evaluations.

Sec. 504. *Incentive Awards.* Agencies are encouraged to review employee incentive programs to ensure that such programs appropriately reward exceptional performance in implementing the Act and this order. Such awards may include monetary incentives such as Quality Step Increases, leave time awards and productivity gainsharing, and nonmonetary and honor awards such as increased authority, additional resources, and a series of options from which employees or teams of employees can choose.

Sec. 505. *Project Teams/Franchising.* (a) Agencies are encouraged to establish Energy Efficiency and Environmental Project Teams ("Project Teams") to implement energy efficiency, water conservation, and solar and other renewable energy projects within their respective agencies. DOE shall develop a program to train and support the Project Teams, which should have particular expertise in innovative financing, including shared energy savings and energy savings performance contracting. The purpose of the program is to enable project teams to implement projects quickly and effectively in their own agencies.

(b) Agencies are encouraged to franchise the services of their Project Teams. The ability to access the services of other agencies' teams will foster excellence in project implementation through competition among service providers, while providing an alternative method to meet or exceed the requirements of the Act and this order for agencies that are unable to devote sufficient personnel to implement projects.

Sec. 506. *FEMP Account Managers.* FEMP shall develop a customer service program and assign account managers to agencies or regions so that each project may have a designated account manager. When requested by an agency, the account manager shall start at the audit phase and follow a project through commissioning, evaluation, and reporting. The account manager shall provide technical assistance and shall have responsibility to see that all actions possible are taken to ensure success of the project.

Sec. 507. *Procurement of Energy Efficient Products by Federal Agencies.* (a) *"Best Practice" Technologies.* Agencies shall purchase energy-efficient products in accordance with the guidelines issued by OMB, in consultation with the Defense Logistics Agency ("DLA"), DOE, and GSA, under section 161 of the Energy Policy Act of 1992. The guidelines shall include listings of energy-efficient products and practices used in the Federal Government. At a minimum, OMB shall update the listings annually. DLA, DOE, and GSA shall update the portions of the listings for which they have responsibility as new products become available and conditions change.

(1) Each agency shall purchase products listed as energy-efficient in the guidelines whenever practicable, and whenever they meet the agency's specific performance requirements and are cost-effective. Each agency shall institute mechanisms to set targets and measure progress.

(2) To further encourage a market for highly-energy-efficient products, each agency shall increase, to the extent practicable and cost-effective, purchases of products that are in the upper 25 percent of energy efficiency for all similar products, or products that are at least 10 percent more efficient than the minimum level that meets Federal standards. This requirement shall apply wherever such information is available, either through Federal or industry-approved testing and rating procedures.

(3) GSA and DLA, in consultation with DOE, other agencies, States, and industry and other nongovernment organizations, shall provide all agencies with information on specific products that meet the energy-efficiency criteria of this section. Product information should be made available in both printed and electronic formats.

(b) *Federal Market Opportunities.* DOE, after consultation with industry, utilities, and other interested parties, shall identify advanced energy-efficient and water-conserving technologies that are technically and commercially feasible but not yet available on the open market. These technologies may include, but are not limited to, the advanced appliance technologies referenced in section 127 of the Energy Policy Act of 1992. DOE, in cooperation with OMB, GSA, DOD, the National Institute of Standards and Technology ("NIST"), and EPA, shall issue a "Federal Procurement Challenge" inviting each Federal agency to commit a specified fraction of their purchases within a given time period to advanced, high-efficiency models of products, provided that these anticipated future products can meet the agency's energy performance, functionality, and cost requirements.

(c) *Accelerated Retirement of Inefficient Equipment.* DOE, in consultation with GSA and other agencies, shall establish guidelines for the cost-effective early retirement of older, inefficient appliances and other energy and water-using equipment in Federal facilities. Such guidelines may take into account significant improvements in energy efficiency and water conservation, opportunities to down-size or otherwise optimize the replacement equipment as a result of associated improvements in building envelope, system, or industrial process efficiency and reductions in pollutant emissions, use of chlorofluorocarbons, and other environmental improvements.

(d) *Review of Barriers.* Each agency shall review and revise Federal or military specifications, product descriptions, and standards to eliminate barriers to, and encourage Federal procurement of, products that are energy-efficient or water conserving.

PART 6—WAIVERS

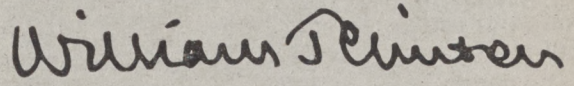
Sec. 601. *Waivers.* Each agency may determine whether certain requirements in this order are inconsistent with the mission of the agency and seek a waiver of the provision from the Secretary of Energy. Any waivers authorized by the Secretary of Energy shall be included in the annual report on Federal energy management required under the Act.

PART 7—REVOCATION, LIMITATION, AND IMPLEMENTATION

Sec. 701. Executive Order No. 12759, of April 17, 1991, is hereby revoked, except that sections 3, 9, and 10 of that order shall remain effective and shall not be revoked.

Sec. 702. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not create, any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 703. This order shall be effective immediately.



THE WHITE HOUSE,
March 8, 1994.

[FR Doc 94–5834
Filed 3–9–94; 11:02 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 59, No. 47

Thursday, March 10, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

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FEDERAL REGISTER PAGES AND DATES, MARCH

9613–9916.....1
9917–10046.....2
10047–10264.....3
10265–10568.....4
10569–10720.....7
10721–10938.....8
10939–11174.....9
11175–11472.....10

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6651.....10049
6652.....10265
6653.....10723
6654.....10725
6655.....10727
6656.....11175
Administrative Orders:
Presidential Determinations:
No. 94–15 of February 18, 1994.....10047
Executive Orders:
12759 (Revoked in part by EO 12902).....11463
12873 (See 12902).....11463
12901.....10721
12902.....11463

5 CFR

837.....10267

7 CFR

300.....9613
301.....11177
319.....9917
321.....9917
457.....9614
810.....10569
905.....10051
907.....10052
908.....10052
917.....10053
993.....10228
1094.....10056
1106.....11180
1413.....10574
1464.....10939
1475.....9918
1924.....9805
1930.....9805
1944.....9805
Proposed Rules:
959.....11008
1004.....10326
1427.....9674
1744.....10327
1753.....10327

9 CFR

91.....9616
92.....9617, 10729
Proposed Rules:
78.....9938
92.....9679
94.....9939, 9941
101.....9681
113.....9681
301.....10246
318.....10246
381.....10230

10 CFR

50.....10267
Proposed Rules:
Ch. II.....9682
Ch. III.....9682
430.....10334, 10464
Ch. X.....9682

11 CFR

104.....10057
Proposed Rules:
8.....11211

12 CFR

3.....10946
205.....10678
650.....9622
Proposed Rules:
205.....10684, 10698
327.....9687
701.....10334

13 CFR

123.....10953, 10955

14 CFR

39.....10057, 10270, 10272, 10273, 10275, 10279, 10575, 10734, 10735, 11182,
71.....9627, 9919, 9920, 10739, 10740, 10741, 10742, 10743, 10744, 10745, 10746, 10747, 10956, 10957
91.....10958
73.....10748
97.....11182, 11183
157.....10262
300.....10060
302.....10060
303.....10060
325.....10060
385.....10060
Proposed Rules:
Ch. I.....11009
39.....10336, 10338, 10340, 10759
71.....10040, 10084, 10760, 11010, 11222, 11223, 11224

15 CFR

771.....10958
772.....10958
773.....10958
774.....10958
778.....10958
786.....10958
787.....10958
799.....10958
Proposed Rules:
946.....9921
990.....9688

16 CFR

Proposed Rules:
1500.....10761

17 CFR

9.....10228
12.....9631
21.....10228
30.....10281
143.....10228
156.....10228
190.....10228
240.....10984
Proposed Rules:
1.....9689

18 CFR

Ch. I.....9682
4.....10576
271.....10577
401.....11458
Proposed Rules:
284.....11011

19 CFR

4.....10283
123.....10283
Proposed Rules:
4.....11225
10.....11225
12.....11225
102.....11225
134.....11225
146.....10342
175.....10764
177.....11225

20 CFR

Proposed Rules:
416.....10766
626.....10769
1005.....10769

21 CFR

73.....10578
172.....10986
177.....9925, 10986
178.....10064, 10065
450.....9638
886.....10283
1308.....10718
Proposed Rules:
123.....10085
1240.....10085
1308.....10720

24 CFR

Proposed Rules:
905.....10876
968.....10876

25 CFR

Proposed Rules:
Ch. I.....9718

26 CFR

1.....10066, 10067
20.....9642
22.....9642
25.....9642
31.....9664
301.....10075
602.....9642, 10067
Proposed Rules:
1.....10675
602.....10675

28 CFR

2.....11185, 11186
Proposed Rules:
77.....10086

29 CFR

2616.....11187
2617.....11187
2647.....9926

30 CFR

Proposed Rules:
Ch. II.....9718
Ch. IV.....9718
Ch. VI.....9718
Ch. VII.....9718
924.....11225
935.....11227
936.....10770

31 CFR

315.....10534
316.....10534
317.....10534
321.....10534
330.....10534
332.....10534
342.....10534
351.....10534
352.....10534
353.....10534

32 CFR

90.....10988
323.....9667
701.....9927

33 CFR

100.....10749
117.....10076, 10749
165.....10077, 10749, 10750
Proposed Rules:
110.....10772
165.....10773, 10774, 10775, 10777
177.....10102

34 CFR

Proposed Rules:
Ch. VI.....10103
200.....11444
201.....11444
75.....10926
693.....10926

36 CFR

254.....10854
Proposed Rules:
Ch. I.....9718

38 CFR

4.....10676
Proposed Rules:
3.....9719, 10675
36.....9944

39 CFR

20.....11188
963.....10751

40 CFR

52.....9668, 10078, 10284, 10752
81.....11193
180.....9928, 9929, 9931, 10286, 10287, 10288, 10988, 10990, 10991
185.....10993
233.....9933
238.....9866
271.....10550
279.....10550
Proposed Rules:
Ch. I.....9946
52.....9947, 10103, 10349, 11012, 11228
63.....10352, 10461, 10591, 11018
68.....9947, 11105
81.....11012
156.....10228
165.....10228
180.....9947, 9949
261.....9808, 10352
268.....10778
271.....9808
281.....9950
302.....9808
745.....9951, 11108, 11122

41 CFR

302–11.....10997

42 CFR

405.....10290
412.....11000
424.....10290
Proposed Rules:
57.....10104
417.....11230

43 CFR

Public Land Orders:
7031.....11195
7032.....11196
7033.....11196
Proposed Rules:
Subtitle A.....9718
Ch. I.....9718
Ch. II.....9718
3160.....11019

44 CFR

64.....9671

45 CFR

233.....10299

46 CFR

10.....10753
15.....10753
Proposed Rules:
10.....10544
12.....10544
16.....10544
25.....10461

47 CFR

61.....10300
69.....10300
76.....9934
Proposed Rules:
73.....10605, 10606, 10607
90.....10107
97.....11029

48 CFR

1.....11368, 11387
3.....11387
4.....11371
5.....11387
9.....11371
10.....11373
14.....11374
15.....11374, 11375, 11387
16.....11387
19.....11375, 11376, 11387
25.....11377, 11378
31.....11378, 11387
32.....11379
33.....11380
42.....11380, 11382, 11387
45.....11383, 11384
47.....11382, 11385
48.....11387
52.....11371, 11374, 11377, 11379, 11380, 11385, 11386, 11387
53.....11387
225.....10579
247.....10579
252.....10579
903.....11197
1807.....11198, 11200
1815.....11198
1852.....11198
1870.....11198
1804.....10078
1807.....10079
1815.....10081
1834.....10079
1852.....10079
1853.....10078
1870.....10078, 10079
Proposed Rules:
Ch. 9.....9682
Ch. 14.....9718
1815.....9951
1837.....9951
1852.....9951

49 CFR

1.....10060
7.....10060
8.....10060
28.....10060
543.....10756
571.....11004, 11200
1312.....10304
Proposed Rules:
215.....11238
571.....10779
1002.....11240
1011.....11240
1130.....11240

50 CFR

17.....9935, 10305, 10580, 10898, 10906
21.....11203
85.....11204
217.....10584
625.....10586
641.....10675
650.....11006
651.....9872, 10588
672.....10588, 11209
675.....10082
Proposed Rules:
Ch. I.....9718
Ch. IV.....9718
17.....9720, 10364, 10607
644.....9720
646.....9721

649.....11029
651.....10608
658.....9724
671.....10365

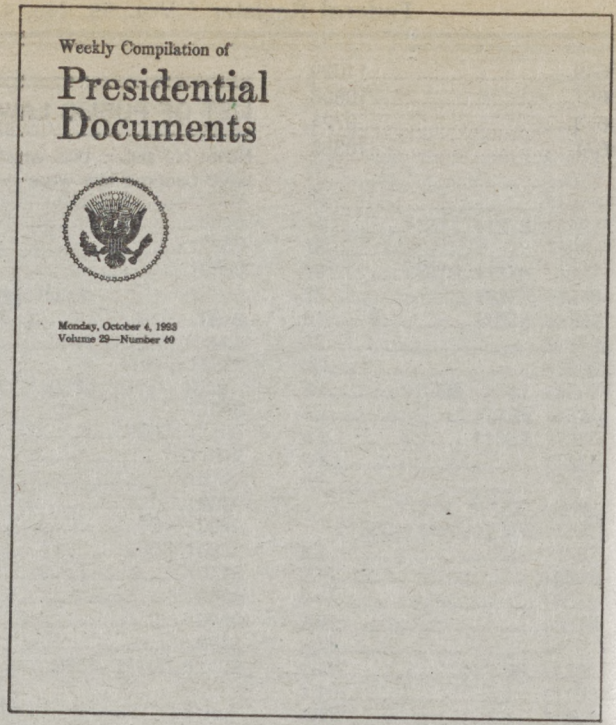
LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List February 25, 1994

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