AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

10–24–94
Vol. 59 No. 204

federal register

Monday
October 24, 1994

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

OFFICIAL BUSINESS
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SECOND CLASS NEWSPAPER

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

10–24–94
Vol. 59 No. 204
Pages 53347–53562

federal register

Monday
October 24, 1994

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

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: October 25 at 9:00 am and 1:30 pm

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Contents

Federal Register

Vol. 59, No. 204

Monday, October 24, 1994

Administrative Conference of the United States
NOTICES
Meetings:
Judicial Review Committee et al., 53412

Agency for International Development
NOTICES
Agency information collection activities under OMB review, 53412

Agricultural Marketing Service
RULES
Kiwifruit grown in California, 53347–53348

Agricultural Research Service
NOTICES
Inventions, Government-owned; availability for licensing, 53412–53413

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service

Antitrust Division
NOTICES
National cooperative research notifications:
Appliance Industry-Government CFC Replacement Consortium, Inc., 53489
Dehydration System Evaluation Project, 53488
United Technologies Corp., 53488
United Technologies Research Center, 53488–53489

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Meetings:
Fetal alcohol syndrome prevention technical assistance workshop, 53477–53478
National childhood lead poisoning prevention education conference, 53478
Metalworking fluids issues; NIOSH meeting, 53478

Coast Guard
RULES
Drawbridge operations:
Illinois, 53351–53353
Ports and waterways safety:
Upper Mississippi River; safety zone, 53353–53354
NOTICES
Environmental statements; availability, etc.:
Pacific Corridor Region; differential global positioning system, 53508–53509

Commerce Department
See Economic Development Administration
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Dominican Republic, 53420

Defense Department
See Engineers Corps
NOTICES
Agency information collection activities under OMB review, 53420–53421
Medical services reimbursement rates; 1995 FY, 53421–53441

Economic Development Administration
NOTICES
Trade adjustment assistance eligibility determination petitions:
Applied Microsystems Corp. et al., 53413–53414

Energy Department
See Energy Research Office
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Multi-purpose canister-based system for management of civilian spent nuclear fuel; fabrication and deployment, 53442–53448

Energy Research Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Basic energy sciences program, etc., 53458–53459
Global change research program; terrestrial carbon process research, 53459–53460

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Brevard County, FL; shore protection project review study, 53441–53442

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Synthetic organic chemical manufacturing industry and other processes subject to equipment leaks negotiated regulation, 53359–53360
PROPOSED RULES
Air pollutants, hazardous; national emissions standards:
Synthetic organic chemical manufacturing industry and other processes subject to equipment leaks negotiated regulation, 53392–53396
Air quality implementation plans; approval and promulgation; various States:
California, 53389–53391
Clean Air Act:
Ozone Transport Commission low emission vehicle program for Northeast Ozone Transport Region, 53396–53410

NOTICES
Meetings:
Clean Air Act Advisory Committee, 53460
Gulf of Mexico Program Citizens Advisory Committee, 53461
Toxic and hazardous substances control:
Incorrectly reported chemical substances removal from inventory, 53461–53463

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

Export Administration Bureau
NOTICES
Meetings:
Regulations and Procedures Technical Advisory Committee, 53413

Federal Aviation Administration
NOTICES
Meetings:
Aviation Rulemaking Advisory Committee, 53509–53510

Federal Bureau of Investigation
NOTICES
Meetings:
National Crime Information Center Advisory Policy Board, 53489

Federal Communications Commission
RULES
Personal communication services:
Licenses in 2 GHz band (broadband PCS)—Competitive bidding, 53364–53371
Radio and television broadcasting:
Broadcast and cable television equal employment opportunity rules and policies; report to Congress, 53363–53364
NOTICES
Agency information collection activities under OMB review, 53463–53475
Meetings:
1995 World Radiocommunication Conference Industry Advisory Committee (WRC–95 Industry Advisory Committee), 53475–53476
Meetings; Sunshine Act, 53515

Federal Emergency Management Agency
RULES
Disaster assistance:
Federal disaster assistance (Public Law 93-288); CFR part removed; and Federal disaster assistance declared on or after November 23, 1988; amendment, 53362–53363

Federal Energy Regulatory Commission
RULES
Organization, functions, and authority delegations:
Secretary or Secretary's designee; proceedings under Federal Power Act, 53349–53351
NOTICES
Electric rate and corporate regulation filings:
Southern Company Services, Inc., et al., 53449–53451
Wisconsin Electric Power Co. et al., 53451–53452
Environmental statements; availability, etc.:
Northern Natural Gas Co., 53448–53449
Hydroelectric applications, 53452–53454
Meetings; Sunshine Act, 53513–53515
Natural gas certificate filings:
Petal Gas Storage Co. et al., 53455
Applications, hearings, determinations, etc.:
Alabama-Tennessee Natural Gas Co., 53455–53456
Columbia Gas Transmission Corp., 53456
El Paso Natural Gas Co., 53456–53457
KN Interstate Gas Transmission Co., 53457
National Fuel Gas Supply Corp., 53457
Natural Gas Pipeline Co. of America, 53457–53458
Southern Natural Gas Co., 53458
Transcontinental Gas Pipe Line Corp., 53458

Federal Maritime Commission
NOTICES
Investigations, hearings, petitions, etc.:
All Freight International, 53476

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
First Bancorporation of Ohio, 53476–53477
Fourth Financial Corp., 53477
Whitham, Stewart A., et al., 53477

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Michigan, 53414

General Services Administration
RULES
Federal Information Resources Management Regulation:
Information technology acquisition requirements; procurement authority delegations, 53360–53362

Health and Human Services Department
See Centers for Disease Control and Prevention

Housing and Urban Development Department
NOTICES
Grant and cooperative agreement awards:
Public and Indian housing—Youth sports program, 53478–53480
Low income housing:
Qualified census tracts and difficult development areas; statutorily designation under 1986 Internal Revenue Code section 42 for tax credit, 53518–53549
Organization, functions, and authority delegations:
Assistant Secretary for Fair Housing and Equal Opportunity et al., 53553–53554
General Counsel et al.; authority revocation, 53552–53553
Regional Counsel et al., 53552

Interior Department
See Land Management Bureau
See National Park Service
See Reclamation Bureau

Internal Revenue Service
NOTICES
Organization, functions, and authority delegations:
Chiefs, Criminal Investigation, et al., 53511–53512

International Trade Administration
NOTICES
Antidumping:
Disposable pocket lighters from—
Thailand, 53414–53416

Interstate Commerce Commission
NOTICES
Environmental statements; availability, etc.:
Atchison, Topeka, & Santa Fe Railway Co. et al., 53483
Railroad operation, acquisition, construction, etc.:
Burlington Northern Railroad Co., 53483
CP Rail System, 53483–53484
CP Rail System et al., 53484
Railroad services abandonment:
New Hampshire Northcoast Corp., 53484–53485
Norfolk & Western Railway Co., 53485

Justice Department
See Antitrust Division
See Federal Bureau of Investigation
NOTICES
Pollution control; consent judgments:
DiBiase Salem Realty Trust et al., 53485–53486
Eastman Kodak Co., 53486
Golden Gate Audubon Society, Inc., et al., 53486–53487
Kalama Specialty Chemicals Inc. et al., 53487
OK Tool Co., Inc., et al., 53487–53488

Land Management Bureau
RULES
Public land orders:
Alaska; correction, 53362
NOTICES
Environmental statements; availability, etc.:
Wells Resource Area, NV, 53480
Realty actions; sales, leases, etc.:
Nevada, 53480–53481
Resource management plans, etc.:
Tonopah Resource Area, NV, 53481

Management and Budget Office
NOTICES
Hospital, medical care, and treatment furnished by United States, costs; rates recovery from tortiously liable third persons, 53492–53495

National Aeronautics and Space Administration
NOTICES
Environmental statements; availability, etc.:
Mars Pathfinder Mission, 53489–53490

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts and Artifacts Indemnity Panel Advisory Committee, 53490–53491

National Oceanic and Atmospheric Administration
RULES
Marine sanctuaries:
Stellwagen Bank National Marine Sanctuary, MA; effective date, 53348
PROPOSED RULES
Meetings:
New England Fishery Management Council, 53410–53411
NOTICES
Coastal zone management programs and estuarine sanctuaries:
Consistency appeals—
Lugo, Olga Velez, 53416–53417
Fishery products; voluntary inspection, grading, and certification services fees and charges, 53417–53419
Meetings:
Gulf of Mexico Fishery Management Council, 53419
Mid-Atlantic Fishery Management Council, 53419
Western Pacific Fishery Management Council, 53419–53420

National Park Service
NOTICES
Meetings:
San Franciso Maritime National Historical Park Advisory Commission, 53482
Sudbury, Assabet and Concord Rivers Study Committee, 53482
Presidio of San Francisco, CA; lease of buildings and grounds; qualifications statements:
Main Post, 53482–53483

National Science Foundation
NOTICES
Meetings:
Computer and Information Science and Engineering Advisory Committee, 53491
Materials Research Special Emphasis Panel, 53491

Nuclear Regulatory Commission
PROPOSED RULES
Defects and noncompliance reports; rules of practice, etc.:
Nuclear power plant licensees; procurement of commercial grade items, 53372–53377
NOTICES
Meetings:
Reactor Safeguards Advisory Committee, 53491–53492

Office of Management and Budget
See Management and Budget Office

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

Presidential Documents
PROCLAMATIONS
Public buildings; nondisplacement of qualified workers under certain contracts (EO 12933), 53559–53561
EXECUTIVE ORDERS
Special observances:
Mammography Day, National (Proc. 6746), 53557–53558

Public Health Service
See Centers for Disease Control and Prevention

Reclamation Bureau
NOTICES
Central Valley Project Improvement Act:
Water conservation plans; evaluation criteria; decision, 53481–53482

Research and Special Programs Administration
NOTICES
Meetings:
International standards on transport of dangerous goods, 53510

Resolution Trust Corporation
NOTICES
Coastal Barrier Improvement Act; property availability:
Acworth Road property, GA, 53496

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 53496–53497
Applications, hearings, determinations, etc.:
Argent Biosciences Fund, Inc., 53497
Cohu, Inc., 53497
Great Hall Investment Funds, Inc., et al., 53497–53501
Investors Cash Reserve Fund, Inc., 53501–53502
Nationwide Life Insurance Co. et al., 53502–53505
Stadshypotek AB, 53505–53507

Small Business Administration
NOTICES
Agency information collection activities under OMB review, 53507

State Department
NOTICES
Foreign assistance determinations:
UN Voluntary Fund for Victims of Torture, 53508
Meetings:
Shipping Coordinating Committee, 53508

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 53515

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

Trade Representative, Office of United States
NOTICES
European Community:
Banana import regime, 53495–53496

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Research and Special Programs Administration
PROPOSED RULES
International cargo transportation; property tariff-filing requirements exemption, 53377–53380
Procedural regulations:
Airport fees; air carrier and foreign air carrier fee increases or newly established fees; determination of reasonableness, 53380–53389

Treasury Department
See Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 53510–53511
Organization, functions, and authority delegations:
Deputy Assistant Secretary (Administration) et al., 53511

Veterans Affairs Department
RULES
Medical benefits:
Healthcare quality assurance reviews; confidentiality, 53354–53359
NOTICES
Senior Executive Service:
Performance Review Boards; membership, 53512

Separate Parts In This Issue

Part II
Department of Housing and Urban Development, 53518–53549

Part III
Department of Housing and Urban Development, 53552–53554

Part IV
The President, 53555–53561

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, **Federal Register** finding aids, and a list of documents on public inspection 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

Proclamations:

6746.....53557

Executive Orders:

12933.....53559

7 CFR

920.....53347

10 CFR

Proposed Rules:

21.....53372

14 CFR

Proposed Rules:

221.....53377
292.....53377
302.....53380

15 CFR

940.....53348

18 CFR

375.....53349

33 CFR

117.....53351
165.....53353

38 CFR

17.....53354

40 CFR

63.....53359

Proposed Rules:

52.....53389
63 (2 documents).....53392, 53395
85.....53396

41 CFR

201–20.....53360

43 CFR

Public Land Order:

7097.....53362

44 CFR

205.....53362
206.....53362

47 CFR

1.....53363
21.....53363
24.....53364
73.....53363
76.....53363

50 CFR

Proposed Rules:

649.....53410
650.....53410
651.....53410

Rules and Regulations

Federal Register
Vol. 59, No. 204
Monday, October 24, 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

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV94–920–3FIR]

Expenses and Assessment Rate for the 1994–95 Fiscal Year for the Marketing Order Covering Kiwifruit Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of the interim final which authorized expenses and established an assessment rate for the Kiwifruit Administrative Committee (Committee) under Marketing Order No. 920 for the 1994–95 fiscal year. Authorization of this budget enables the Committee to incur expenses that are reasonable and necessary to administer the program. Funds to administer this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1994, through July 31, 1995.

FOR FURTHER INFORMATION CONTACT: Britthany Beadle, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–5127; or Rose Aguayo, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, CA 93721, telephone: (209) 487–5901.

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

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, California kiwifruit are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable California kiwifruit during the 1994–95 fiscal year beginning August 1, 1994, through July 31, 1995. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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

There are approximately 65 handlers of kiwifruit grown in California who are subject to regulation under the kiwifruit marketing order and approximately 600 producers of kiwifruit in the regulated area. Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of kiwifruit producers and handlers may be classified as small entities.

The kiwifruit marketing order, administered by the Department, requires that the assessment rate for a particular fiscal year apply to all assessable kiwifruit handled from the beginning of such year. The budget of expenses for the 1994–95 fiscal year was prepared by the Committee, the agency responsible for local administration of this marketing order, and submitted to the Department for approval. The members of the Committee are producers of California kiwifruit. They are familiar with the Committee's needs and with the costs for goods, services, and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of kiwifruit. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Committee's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Committee shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committee will have funds to pay its expenses.

The Committee met on June 15, 1994, and unanimously recommended 1994–95 marketing order expenditures of $167,862 and an assessment rate of $0.01 per tray or tray equivalent of kiwifruit. In comparison, 1993–94 marketing year budgeted expenditures were $156,150, which is $11,712 less than the $167,862 recommended for this fiscal year. The assessment rate of $0.01 per tray or tray equivalent is the same

as last year's assessment rate. The major budget category for 1994–95 is $98,360 for administrative, staff and field salaries.

Assessment income for 1994–95 is estimated to total $110,000 based on anticipated fresh domestic shipments of 11 millions trays or tray equivalents of kiwifruit. The assessment income will have to be augmented by $57,862 from the Committee's reserves to provide adequate funds to cover budgeted expenses. Funds in the reserve at the end of the 1993–94 fiscal year are estimated to be $87,138. The reserve fund will be within the maximum permitted by the order of one fiscal year's expenses.

An interim final rule was published in the **Federal Register** [59 FR 41379, August 12, 1994] and provided a 30-day comment period for interested persons. No comments were received.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is found that the specified expenses for the marketing order covered in this rule are reasonable and likely to be incurred and that such expenses and the specified assessment rate to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** [5 U.S.C. 443] because the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. The 1994–95 fiscal year for the program began August 1, 1994. The marketing order requires that the rate of assessment apply to all assessable kiwifruit handled during the fiscal year. In addition, handlers are aware of this action which was recommended by the Committee at a public meeting and published in the **Federal Register** as an interim final rule

No comments were received concerning the interim final rule that is adopted in this action as a final rule without change.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

For the reason set forth in the preamble, 7 CFR Part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR Part 920 which was published at 59 FR 41379 on August 12, 1994, is adopted as a final rule without change.

Dated: October 18, 1994.

Eric M. Forman,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 94–26224 Filed 10–21–94; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 940

RIN 0648–AC94

Stellwagen Bank National Marine Sanctuary Regulations

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of effective date.

SUMMARY: This notice announces the effective date for the final rule implementing the Stellwagen Bank National Marine Sanctuary, offshore of the Commonwealth of Massachusetts. The final rule which was published on October 19, 1993 could not become effective until a congressional review period of 45 days of continuous session was completed.

EFFECTIVE DATE: The regulations at 15 CFR Part 940 published on October 19, 1993 (58 FR 53865) are effective March 20, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. R. Randall Schneider, Atlantic/Great Lakes Regional Manager, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, SSMC–4, Station 12158, 1305 East-West Highway, Silver Spring, MD 20910 (301/713–3132).

SUPPLEMENTARY INFORMATION: On October 19, 1993, the Under Secretary of Commerce for Oceans and Atmosphere transmitted the Notice of Final Rule and Summary of Final Management Plan for the Stellwagen Bank National Marine Sanctuary to Congress. This action initiated a review period of 45 days of continuous congressional session. Under section 304(b) of the National Marine Sanctuaries Program Amendments Act of 1992, the regulations to implement the Sanctuary designation and regulate the conduct of certain activities shall take effect and become final at the conclusion of the 45-day review period. Thus, the regulations became effective on March 20, 1994.

The Notice of Final Rule and Summary of Final Management Plan was also published in the **Federal Register** on October 19, 1993 (58 FR 53865). On November 4, 1992, Public Law 102–587 was signed, which, among other matters, provides for designation of the Stellwagen Bank National Marine Sanctuary, as described therein. The designated Sanctuary encompasses a total of approximately 638 square nautical miles (approximately 2181 square kilometers) of ocean waters, and the submerged lands thereunder, over and surrounding the submerged Stellwagen Bank and additional submerged features, offshore of the Commonwealth of Massachusetts.

Stellwagen Bank is a submerged, glacially-deposited primarily sandy feature extending for approximately 20 miles in a southeast-to-northwest direction, in the extreme southwestern Gulf of Maine, between Cape Ann, Massachusetts and the northern end of Cape Cod, Massachusetts Bay. The combination of physical and oceanographic characteristics over an around the Bank result in two distinct peak productivity periods annually. This productivity supports a large variety of benthic, invertebrate and pelagic fishery resources, which have in turn supported generations of fishermen. The Bank also provides important feeding and nursery grounds for an extraordinary number of large and small cetacean species. Accessibility of the Bank from land has resulted in an extensive commercial whalewatch industry, attracting more than 1.25 million visitors to the Bank annually. The combination of productivity and accessibility also provides the base for high levels of scientific interest in the Stellwagen Bank area.

Federal Domestic Assistance Catalog Number 11.4229

Marine Sanctuary Program

Dated: October 18, 1994.

Frank W. Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 94–26305 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM94–21–000]

Authorizing Delegation to the Secretary in Proceedings Under Section 210 or Section 211 of the Federal Power Act; Order No. 570; Final Rule

October 18, 1994.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to authorize the Secretary, or the Secretary's designee, to reject without prejudice all requests for rehearing and requests for modification of a proposed order issued in a proceeding under either section 210 or section 211 of the Federal Power Act (FPA). In addition, the Secretary, or the Secretary's designee, will be authorized to reject without prejudice all motions for clarification combined with requests for rehearing and/or requests for modification of a proposed order issued in a proceeding under either section 210 or section 211 of the FPA.

This amendment is necessary in the interests of administrative efficiency.

EFFECTIVE DATE: The final rule is effective November 23, 1994.

FOR FURTHER INFORMATION CONTACT: Gilda E. Rodriguez, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–0626.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3104, 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3104, 941 North Capitol Street NE., Washington, DC 20426.

I. Introduction

Issued October 17, 1994.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

The Federal Energy Regulatory Commission is amending 18 CFR 375.302. Under 18 CFR 375.302 the Commission delegates to the Secretary, or the Secretary's designee, the authority to perform certain functions listed in the regulation. The purpose of this final rule is to amend the list of delegations to add that the Secretary, or the Secretary's designee, has the authority to reject without prejudice certain documents filed in proceedings instituted under section 210 or section 211 of the Federal Power Act (FPA).[1]

Consistent with the Commission's prior orders, pursuant to this rule the Secretary, or the Secretary's designee, will be authorized to reject without prejudice all requests for rehearing and requests for modifications of a proposed order issued in a proceeding under section 211 of the FPA. In addition, the Secretary, or the Secretary's designee, will be authorized to reject without prejudice all motions for clarification that are combined with requests for rehearing and/or requests for modification of a proposed order issued in a proceeding under section 211 of the FPA. The Secretary, or the Secretary's designee, also will be granted the same authority for proceedings under section 210 of the FPA. This amendment is necessary in the interests of administrative efficiency.

II. Discussion

The Energy Policy Act of 1992 revised sections 211 and 212 of the FPA[2] so that the Commission, upon application, may issue an order requiring a transmitting utility to provide transmission services once certain conditions are met. Under section 211, the Commission may issue an order only if it finds that the order meets the requirements of section 212, complies with the statutory standards described in section 211, and would otherwise be in the public interest.

Section 212(c)(1) states that, before the Commission issues an order under section 210 or section 211, the Commission shall issue a proposed order and set a reasonable time for parties to the proposed interconnection or transmission order to agree to terms and conditions under which such order is to be carried out, including the apportionment of costs between them and the compensation or reimbursement reasonably due to any of them.

That section also provides that such proposed order shall not be reviewable or enforceable in any court.[3]

Consistent with this statutory mandate, in *Florida Municipal Power Agency* v. *Florida Power & Light Company*,[4]—the first case in which the Commission proposed to order transmission services under section 211, as amended by the Energy Policy Act—the Commission noted that it had considerable discretion with respect to both the timing and the specificity of a proposed order. Moreover, the Commission stated that the proposed order shall not be reviewable or enforceable in court. The Commission added that, consistent with 18 CFR 385.713, the proposed order is an interlocutory order not subject to requests for rehearing; the proper time for parties to seek rehearing is after the Commission issues a final order under section 211.[5]

Responding to requests for rehearing of *Florida Municipal*, the Commission reiterated the above, and explained that the preliminary findings in a proposed order were not subject to judicial review or requests for rehearing. The Commission explained that entertaining and responding to arguments on preliminary findings could result in a waste of resources of both the Commission and the parties, and could unnecessarily delay the provision of transmission services.[6]

Nonetheless, in subsequent cases, parties have continued to file requests for rehearings of proposed orders in section 211 proceedings. Using Commission time and resources, the Commission has responded to these requests for rehearing and issued decisions finding that proposed orders in section 211 proceedings made preliminary findings only, and thus were not subject to rehearing. Consequently, the Commission

[1] 16 U.S.C. 824i, 824j.

[2] 16 U.S.C. 824j, 824k.

[3] 16 U.S.C. 824k(c)(1).

[4] 65 FERC ¶ 61,125, *order dismissing requests for reh'g*, 65 FERC ¶ 61,372 (1993) (*Florida Municipal*).

[5] 65 FERC at 61,613.

[6] 65 FERC at 63,012.

dismissed these requests for rehearing of the proposed orders without prejudice.[7]

Most recently, *in El Paso Electric Company and Central and South West Services, Inc., as agent for Public Service Company of Oklahoma, West Texas Utilities Company, Southwestern Electric Power Company, and Central Power and Light Company* v. *Southwestern Public Service Company*,[8] the Commission again addressed parties' inappropriate filing of a request for rehearing of a proposed order for transmission services under section 211. Consistent with the earlier orders, the Commission dismissed the request for rehearing without prejudice noting that the proposed order made preliminary findings only, and that a request for rehearing would be appropriate only after the Commission issued a final order. Moreover, the Commission added that notwithstanding many previous, specific admonishments that a request for rehearing of a proposed order for transmission services under section 211 is improper, it has had to repeatedly issue orders dismissing such requests. Accordingly, in the interest of administrative efficiency, the Commission authorized the Secretary, or the Secretary's designee, as of the date of the issuance of the order, to reject requests for rehearing and requests for modification of a proposed order under section 211. However, the Commission indicated that it would entertain legitimate motions for clarification of a proposed order as long as they were not combined with requests for rehearing and/or requests for modification of a proposed order issued in a proceeding under section 211.[9]

Although we have consistently attempted to forestall the inappropriate filing of a request for rehearing or modification of a proposed order under section 211, parties continue to make these improper filings. Therefore, as we noted in *El Paso*, in the interests of administrative efficiency the Commission will not review these requests or issue decisions; rather the Secretary, or the Secretary's designee, will be authorized to reject without prejudice such requests outright.

Moreover, since the language of FPA section 212(c)(1) is also applicable to section 210 proceedings, we will also delegate to the Secretary, or the Secretary's designee, the same authority to dismiss without prejudice the same type of pleadings in section 210 proceedings.

III. Conclusion

As explained above, in the interests of administrative efficiency, we will amend 18 CFR 375.302 to add that the Secretary, or the Secretary's designee, is authorized to reject without prejudice requests for rehearing and requests for modification filed in proceedings under section 210 or section 211.

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[10] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[11] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural.[12] As explained above, this final rule is procedural and ministerial in nature, and promotes internal administrative efficiency by authorizing the Secretary, or the Secretary's designee, to reject without prejudice certain filings in proceedings under sections 210 and 211 of the FPA. Accordingly, no environmental consideration is necessary.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[13] requires rulemakings either to contain a description and analysis of the impact the rule will have on small entities or a certification that the rule will not have a substantial economic impact on a substantial number of small entities. Many, if not most, entities to which this rule would apply do not fall within the definition of small entities.[14] Furthermore, this rule does not establish any new reporting requirements and is merely procedural. Accordingly, no regulatory flexibility analysis is required.

VI. Information Collection Statement

The Office of Management and Budget's (OMB) regulations[15] require that OMB approve certain information collection requirements imposed by the agency's rule. However, this rule neither contains new information collection requirements nor modifies any existing information collection requirements in the Commission's regulations. Therefore, this final rule is not subject to OMB approval.

VII. Administrative Findings and Effective Date

The Administrative Procedure Act (APA)[16] requires rulemakings to be published in the **Federal Register**. The APA also mandates that an opportunity for comment be provided when an agency promulgates regulations. However, notice and comment are not required under the APA when the agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.[17] The Commission finds that notice and comment are unnecessary for this rulemaking. As explained above, this final rule is procedural and ministerial in nature and is being promulgated to advance internal administrative efficiency. The Commission is merely amending 18 CFR 375.302 to permit delegation to the Secretary, or the Secretary's designee, to reject without prejudice certain filings in proceedings under section 210 or section 211 of the FPA.

The Commission will make this rule effective thirty days after the date of publication in the **Federal Register**.

List of Subjects in 18 CFR Part 375

Electric power rates, electric utilities, reporting and record keeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends Part 375, Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

PART 375—[AMENDED]

1. The authority citation for Part 375 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–828r, 791a note, 2601–2645; 42 U.S.C. 7101–7532.

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[7] *See Minnesota Municipal Power Agency* v. *Southern Minnesota Power Agency*, 67 FERC ¶ 61,075 at 61,206–07 (1994); *Minnesota Municipal Power Agency* v. *Northern States Power Company*, 66 FERC ¶ 61,323 at 62,034 (1994).

[8] 68 FERC ¶ _____ (1994) (El Paso).

[9] Id. at _____, slip op. at 5–6.

[10] Regulations Implementing the National Environmental Policy Act, Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–90 ¶ 30,783 (1987) (codified at 18 CFR part 380).

[11] 18 CFR 380.4.

[12] 18 CFR 380.4(a)(2)(ii).

[13] 5 U.S.C. 601–612.

[14] See 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632, which defines "small business concern" as a business that is independently owned and operated and that is not dominant in its field of operation.

[15] 5 CFR 1320.

[16] 5 U.S.C. 551–559.

[17] 5 U.S.C. 553(B).

2. Section 375.302 is amended by adding paragraphs (t) and (u) to read as follows:

§ 375.302 Delegations to the Secretary.

* * * * *

(t) Reject without prejudice all requests for rehearing and requests for modification of a proposed order issued in a proceeding under section 210 or section 211 of the Federal Power Act, 16 U.S.C. 824i, 824j.

(u) Reject without prejudice all motions for clarification that are combined with requests for rehearing and/or requests for modification of a proposed order issued in a proceeding under section 210 or section 211 of the Federal Power Act, 16 U.S.C. 824i, 824j.

[FR Doc. 94–26284 Filed 10–21–94; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–94–033]

Drawbridge Operation Regulations; Chicago River, IL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation; request for comments.

SUMMARY: The Commander, Ninth Coast Guard District, has authorized a 60-day deviation from the operation regulations for the draws of the bridges over the Chicago River, IL. The deviation was authorized to evaluate a drawbridge schedule with fewer required bridge openings during the fall time period when most recreational vessels traditionally return from Lake Michigan to the boat yards for winter storage. This deviation was specifically crafted to reflect the spirit of Department of Transportation strategic goals that encourage effective intermodal system integration. The Coast Guard will review comments received via this solicitation and the data gathered relating to the effect of the draw schedule on vessel and motor vehicle movements while the process to effect more permanent rulemaking is initiated during the lull between seasons.

DATES: Effective Date: The deviation is effective from October 11, 1994, to December 5, 1994, unless sooner terminated by the District Commander.

Comments: Comments must be received by January 15, 1995.

ADDRESSES: Comments may be mailed to Mr. Robert Bloom, Chief, Bridge Branch Ninth Coast Guard District, 1240 E. Ninth St., Cleveland, Ohio 44199 or may be delivered to room 2083D at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 522–3993. Comments will become part of this docket and will be available for inspection or copying at room 2083D, at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Bloom, (216) 522–3993.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to submit written data or views concerning the schedule of draw openings during the deviation period. Persons submitting comments should include their names and addresses and identify this notice (CGD09–94–033). Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to Mr. Robert Bloom at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will be beneficial, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

The Coast Guard also requests comments on the use of "negotiated rulemaking" (under the authority of the Federal Advisory Committee Act, 5 U.S.C. App. 2) if it determines that a permanent change to the draw schedule should be proposed.

In negotiated rulemakings, the affected parties and the public may benefit from face-to-face negotiations, sharing of information, and cooperation in developing and reaching agreement on the provisions of a rule. Negotiated rulemaking procedures may be appropriate when: there are a limited number of identifiable interested parties who would be affected by the rule; there is a reasonable chance that balanced representation can be reached on the committee and that it will negotiate in good faith; there is likelihood of a committee consensus in a fixed time period; the negotiating process will not unreasonably delay the rule; and the agency can use the consensus of the committee in formulating the NPRM.

The Coast Guard specifically requests comments on whether the above criteria could be met with respect to a rulemaking to revise the draw opening schedule of the draws over the Chicago River. The Coast Guard also requests suggestions on which parties should be members of a negotiated rulemaking committee. In those instances where a party would be a governmental or corporate entity, the Coast Guard also requests nominations of individual representatives for those entities.

Drafting Information

The principal persons involved in drafting this document are Robert Bloom, Project Manager, Chief, Bridge Branch Ninth Coast Guard District, and Commander James Collin, Project Counsel.

Background

Following notice and comment rulemaking, the Coast Guard promulgated a final rule on April 18, 1994, establishing a new rule for drawbridge operations on the Chicago River. On September 26, 1994, the United States District Court for the District of Columbia issued an order in the case of Crowley's Yacht Yard, Inc., Plaintiff, v. Federico Pena, Secretary, United States Department of Transportation, Defendant, Civil Action Number 94–1152 SSH, rescinding the Final Rule published on April 18, 1994, and reinstating the previous regulations found at 33 CFR 117.391. The former regulations reinstituted by the District Court provided for on-demand openings of drawbridges except during rush hour periods. Further, the former regulations contained no requirement for advance notice or the use of flotillas.

In an October 4, 1994, letter to the Department of Transportation, the City of Chicago requested relief from the reinstituted rules, stating that the timing of the order reinstating the previous regulations was creating a serious problem for the City of Chicago because it allowed weekday "on demand" openings. In addition to being concerned with the costs, the City noted the potential disruption to vehicular, elevated train, and pedestrian traffic, and that from early September through October 15, approximately 600 boats are expected to transit the Chicago River to boatyards for Winter storage. The City stated that the needs of boats could be accommodated with a limited number of openings, and requested that the bridge openings be restricted to weekends, Wednesdays between the

hours of 10 a.m. and 2 p.m., and Tuesday and Thursday evenings.

The Coast Guard has also been provided with information from Grant Crowley, plaintiff in the District Court litigation, concerning a voluntary arrangement, initiated by the major boatyards, to promote the passage of returning boats in flotillas on Tuesdays and Thursdays at 10 a.m. and Saturday and Sunday at noon, if needed. They also suggested reducing the number of weekday daylight openings to one a week after the majority of boats returned. While a number of boats have transited the Chicago River under this voluntary arrangement, it does not prevent individual vessels outside the boatyard umbrella from requesting bridge openings at other times. It is estimated that approximately 400 boats have not yet gone to layup.

In light of the district court's decision and the City's request, representatives of the Department of Transportation, the Coast Guard and the United States Attorney's Office met with plaintiff's attorneys and representatives of the City of Chicago on October 6 in an effort to obtain a mutually satisfactory agreement on a modified short-term schedule of bridge openings that would meet the needs of both the City and the boaters. These efforts were unsuccessful.

The similarity of the City request and the voluntary program initiated through the boatyards, together with the imminent end of the boating season and the concomitant heavy vessel traffic, presents an opportunity to not only address the needs of the City and the boaters, but also to gather additional data on whether a restricted schedule of bridge openings will adequately provide for the needs of navigation, while alleviating vehicle traffic problems caused by bridge openings.

In order to gather relevant data on the "Fall return" of vessels and motor vehicle traffic and number of bridge openings, the District Commander has issued this deviation from the regulations to provide restricted times that the bridges will be available for opening.

Notice: Notice is hereby given that the Coast Guard has granted the City of Chicago, Department of Transportation, a temporary deviation from the operating requirement at 33 CFR 117.391 governing certain bridges owned by the City of Chicago over the Chicago River, as follows:

Main Branch

Lake Shore Drive
Columbus Drive
Michigan Avenue
Wabash Avenue
State Street
Dearborn Street
Clark Street
La Salle Street
Wells Street
Franklin-Orleans Street

South Branch

Lake Street
Randolph Street
Washington Street
Madison Avenue
Monroe Street
Adams Street
Jackson Boulevard
Van Buren Street
Eisenhower Expressway
Harrison Street
Roosevelt Road
18th Street
Canal Street
South Halsted Street
South Loomis Street
South Ashland Avenue

North Branch

Grand Avenue
Ohio Street
Chicago Avenue
North Halsted

This deviation from normal operating regulations is authorized in accordance with the provisions of title 33 of the Code of Federal Regulations, § 117.43, for the purpose of evaluating a drawbridge schedule with fewer required bridge openings during the fall time period when most recreational vessels traditionally return from Lake Michigan to the boatyards for winter storage. The Coast Guard will review the comments received and the data gathered relating to the effect of the draw schedule on vessel and motor vehicle movements to determine whether to initiate a rulemaking proposing a permanent change to the drawbridge operation schedule. This temporary deviation applies only to the passage of recreational vessels. Under this deviation, the above listed bridges operated by the City of Chicago need not open for the passage of recreational vessels except during the specified time periods provided the City of Chicago receives a twenty-four hour advance notice of a request for a passage during one of these periods and vessels are in flotillas of no fewer than 5 and no more than 25 vessels.

(a) From 7 a.m. through 7 p.m. on Saturdays and from 7 a.m. through 7 p.m. on Sundays, the draws shall open for the passage of organized flotillas consisting of no less than five and not more than twenty-five vessels. The flotillas shall be afforded continuous and uninterrupted passage upon entering the Chicago River, except when bridges remain closed for emergency vehicle crossing.

(b) From 10:30 a.m. until 1:30 p.m. on Tuesdays and Thursdays, from October 11, 1994 until October 23, 1994, the draws shall open for the passage of organized flotillas consisting of no less than five and not more than twenty-five vessels. The flotillas shall be afforded continuous and uninterrupted passage upon entering the Chicago River, except when bridges remain closed for emergency vehicle crossing.

(c) From 10:30 a.m. until 1:30 p.m. on Wednesdays after October 23, 1994, and until December 5, 1994, the draws shall open for the passage of organized flotillas consisting of no less than five and not more than twenty-five vessels. The flotillas shall be afforded continuous and uninterrupted passage upon entering the Chicago River, except when bridges remain closed for emergency vehicle crossing.

(d) From 6:30 p.m. until 10 p.m. on Wednesdays the draws shall open for the passage of organized flotillas consisting of no less than five and not more than twenty-five vessels. The flotillas shall be afforded continuous and uninterrupted passage upon entering the Chicago River, except when bridges remain closed for emergency vehicle crossing.

(e) Upon notification by the owners/agents of the boatyards to the City of Chicago that not enough boats remain to form flotillas to meet the minimum number of five for a return to the yards for winter storage, the City shall provide openings for those remaining vessels even though the number is less than five for passage during the scheduled periods. Notwithstanding this deviation, the City of Chicago, after receiving notice twenty-four hours in advance of the intended passage of the flotilla through the draws of the bridges, shall ensure that:

(a) The necessary bridgetenders are provided for the safe and prompt opening of the draws:

(b) the operating machinery of each draw is maintained in a serviceable condition; and

(c) the draws are operated at sufficient intervals to assure their satisfactory operation.

The Kinzie Street Bridge, mile 1.81 across the North Branch, and Cermak Road bridge, mile 4.05 across the South Branch, shall continue to operate in accordance with requirements presently established in 33 CFR 117.391.

All draws shall open for commercial vessels in accordance with current regulations in 33 CFR 117.391. In accordance with current regulations, including 117.391, government vessels

of the United States, state and local vessels used for public safety, and vessels in distress shall be passed through the draws of all bridges as soon as possible at all times.

Dated: October 7, 1994.

Rudy K. Peschel,

Rear Admiral, U.S. Coast Guard Commander, Ninth Coast Guard District.

[FR Doc. 94–26313 Filed 10–21–94; 8:45 am]

BILLING CODE 4910–14–17

33 CFR Part 165

[COTP Paducah Regulation 94–001]

RIN 2115–AA97

Safety Zone; Upper Mississippi River, Mile 42.0 to Mile 43.7

AGENCY: Coast Guard, DOT.

ACTION: Final rule; extension of effective date.

SUMMARY: The Coast Guard is extending the effective period of a safety zone on the Upper Mississippi River, needed to prevent an allision with the salvage equipment located mid-channel at mile 43.0, Upper Mississippi River. The regulation restricts general navigation in the regulated area for the safety of vessel traffic and the protection of life and property along the river. The conditions requiring this action will extend until December 24, 1994 so that the work may be completed.

EFFECTIVE DATES: This regulation is effective October 24, 1994. The expiration date of § 165.T02–064 is extended from October 24, 1994 to December 24, 1994.

FOR FURTHER INFORMATION CONTACT: LT Eric J. Mosher, Operations Officer, Captain of the Port, Paducah, Kentucky at (502) 442–1621.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this regulation are LT Eric J. Mosher, Project Officer, Marine Safety Office, Paducah, Kentucky and LT S. Moody, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, recent decreases in the river levels of the Upper Mississippi River have necessitated the removal and salvage of two sunken barges at miles 43.0 and 42.7 that have been determined to be a hazard to navigation in that area. The conditions requiring this action will extend until December 24, 1994 so that the work may be completed. As a result, the Coast Guard deems it to be in the public's best interest to issue a regulation immediately.

Background and Purpose

The situation requiring this regulation is the reduction of the channel width to 200 feet from below the Thebes Railroad Bridge at mile 43.7 to mile 42.0 due to the presence of salvage equipment. The salvage equipment is on scene to refloat two sunken barges at miles 43.0 and 42.7 that have been determined to be a hazard to navigation in that area. The Coast Guard established a safety zone around these areas by a rule published in the **Federal Register** on September 13, 1994 (59 FR 46918). The rule is scheduled to expire on October 24, 1994, but the conditions requiring this action will extend until December 24, 1994 so that the work may be completed. The regulation is intended to restrict all vessels to the following provisions. Meeting, overtaking or passing in the safety zone is prohibited. Upbound tows transiting the safety zone are limited in size to twenty barges and not more that four wide. Downbound tows transiting the safety zone are limited in size to fifteen barges and not more than three wide. During daylight hours, all vessels approaching the safety zone must contact the Coast Guard representative on board the M/V CAPTAIN VAL on VHF–FM channel 6, 213 or 16 for passing instructions. Upbound vessels must call in when approaching mile 39.0 and downbound vessels must call in when approaching mile 58.0. During hours of darkness, all vessels must use all reasonable means to identify vessels transiting or approaching the safety zone and make safe passing arrangements. All vessels must transit the safety zone at their slowest safe speed and should expect delays. All vessels are urged to give the widest possible berth to salvage equipment and operations. All vessels transiting the area are urged to exercise extreme caution.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 10040; February 26, 1979). Because the duration of this emergency situation is anticipated to be short, the Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

To avoid any unnecessary adverse economic impact on businesses which use the river for commercial purposes, Captain of the Port, Paducah, Kentucky will monitor river conditions and will authorize unrestricted entry into the restricted area as conditions permit. Changes will be announced by Marine Safety Information Radio Broadcast (Broadcast Notice to Marines) on VHF Marine Band Radio, Channel 22 (157.1 MHZ). Mariners may also call the Marine Safety Officer Paducah, Kentucky for current information.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism Assessment

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that it does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this regulation is categorically excluded from further environmental documentation as an action required to protect public safety.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping requirements, Security measures, Waterways.

Temporary Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code

of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. In section 165.T02–064 paragraph (b) is revised to read as follows:

§ 165.T02–064 Safety Zone: Upper Mississippi River mile 42.0 to 43.7.

* * * * *

(b) *Effective dates.* This section is effective from August 24, 1994 and terminates on December 24, 1994.

* * * * *

Dated: October 17, 1994.

Robert M. Segovis,

Commander, U.S. Coast Guard, Captain of the Port, Paducah, Kentucky.

[FR Doc. 94–26312 Filed 10–21–94; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AG01

Confidentiality of Healthcare Quality Assurance Reviews

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations which govern the confidentiality of documents produced in VA healthcare quality assurance programs. These regulations specify and provide for the limited disclosure of those quality assurance documents which are confidential under the provisions of the Dept. of Veterans Affairs Confidentiality of Medical Quality Assurance Records Act of 1980, 38 U.S.C. 5705.

EFFECTIVE DATE: This amendment is effective January 23, 1995.

FOR FURTHER INFORMATION CONTACT: Galen L. Barbour, M.D. Associate CMD for Quality Management (15), 810 Vermont Avenue N.W., Washington, D.C. 20420.

SUPPLEMENTARY INFORMATION: VA published a proposal to amend 38 CFR part 17 in the **Federal Register** of August 20, 1993 (58 FR 44313). Interested persons were invited to submit written comments, suggestions or objections on or before September 20, 1993. We received one comment from the American Psychiatric Association.

The commenter noted that the standards for disclosure of medical quality assurance records protected by section 5705 do not mirror the standards recently proposed by the VA regarding the confidentiality of patient records related to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus (HIV) and sickle cell anemia. The commenter asked that VA articulate any statutory or public policy difference regarding the protection of these two categories of records.

Each category of records is protected by a statute which specifically provides that records subject to it may be released outside the agency only as authorized by that particular section of title 38. Section 5705 applies to medical quality assurance records, and section 7332 applies to drug abuse, alcoholism or alcohol abuse, HIV infection and sickle cell anemia. The VA regulations in each case reflect the protection and the disclosure authority specified by Congress in each statute.

This revision of the regulations in 38 CFR part 17 applies to healthcare quality assurance records and documents created after the date on which the revision becomes effective. The previous regulations are still applicable to records and documents created prior to that date and remain protected by 38 U.S.C. 5705 (formerly 38 U.S.C. 3305), Confidentiality of Medical Quality-Assurance Records. Records generated for reviews which are initiated prior to the effective date of this revision and are in accordance with the previous regulations are protected by the previous regulations even if the records are completed after the effective date of this revision.

This revision is necessary to update the previous regulations which were published in 1982. Much of the language in those regulations no longer reflects the practice and terminology of quality assurance.

These revised regulations describe the conditions determining the confidentiality of documents produced in quality assurance programs.

They do not specify the quality assurance program requirements for VA medical facilities; the rapidly changing environment to which quality assurance programs respond requires that policy guidance on this subject be presented in a more flexible and readily modifiable format. Consequently, the Veterans Health Administration (VHA) is simultaneously publishing a directive delineating the specific quality assurance requirements for VA medical facilities and the oversight responsibilities of VHA regarding these requirements.

To be confidential and privileged under 38 U.S.C. 5705 and these regulations, a document or part of a document must meet all four of the following criteria:

1. The quality assurance activity which generated the document must fall under one of the four classes listed in 17.501(a).

2. In accordance with 17.501(b), the activity which generated the document must have been previously designated in writing as an activity which produces confidential quality assurance documents.

3. The document or part of document must meet one of the five conditions described in 17.501(c).

4. The document or part of document must not meet any of the conditions in 17.501(g).

The revised regulations allow confidential information concerning a provider to be seen by that provider for educational and quality improvement purposes. To protect the integrity of the peer review process, the identities of the peer reviewers involved in the creation of the data will not be disclosed to the provider, to the extent practicable. We believe these changes will permit a flow of information conducive to continuous quality improvement by making information on their practice readily available to clinicians.

Information concerning the number of cases treated and procedures performed by individual providers will no longer be confidential and protected by 38 U.S.C. 5705 and these regulations. Consequently, 38 U.S.C. 5705 no longer constitutes a bar to VA facilities placing this information in a practitioner's credentialing and privileging folder. Since this information is important to the evaluation of a practitioner's request for renewal of clinical privileges, making it more readily available should increase the effectiveness of that process.

The specific examples of programs and activities cited in 17.501(a) are included to provide guidance to VA facilities in classifying their review documents to simplify coverage under these regulations. Documents from other systematic healthcare quality assurance reviews which meet the criteria in 17.501 are also confidential.

It is expected that VA facilities will indicate on all confidential review documents created after the publication of these regulations that the document is confidential under 38 U.S.C. 5705 and these regulations and also will designate the specific program or activity within which the review is included. The

program and activity names used should be from the policy documents referred to in 17.501(b). However, it is not necessary for the facility to have taken these steps for a document which meets the criteria in 17.501 to be confidential and privileged.

These regulations recognize that there are two types of external reviews of care conducted by VA Central Office and the Regions. One type generates documents which are made confidential and privileged by 38 U.S.C. 5705 while the documents resulting from the second type of external review are not protected by that statute. Sections 17.501(a)(2), 17.501(a)(3) and 17.501(g)(9) clarify existing agency procedures in this respect.

This revision does not address the filing of confidential quality assurance documents by individual identifiers. This change from the previous regulations does not mean that it is now legal to file documents in this manner. Guidelines will be provided to the field when this issue is resolved.

The revised regulations no longer specify the manner in which VA facilities will maintain and protect records containing information protected by 38 U.S.C. 5705. However, all VA facilities are expected to provide the level of protection reasonably necessary to ensure that access to and disclosure of all records containing information protected by 38 U.S.C. 5705 will occur only as authorized by the statute and implementing regulations.

Under these regulations, quality assurance investigations may be initiated as needed by facilities as focused reviews. Focused reviews can be used to study both specific incidents and specific issues. Records and documents relating to focused reviews will be confidential and privileged if they meet the criteria in 17.501.

As in the past, information and records derived from patient medical records or facility administrative records, which are not protected by 38 U.S.C. 5705 and these regulations, may be sent or communicated to a third party payor who has asked for this information in response to a VA request for reimbursement based on Public Law 99–272 and Public Law 101–508. Reviews conducted at the request of the third party payor do not generate records protected by 38 U.S.C. 5705 and these regulations since the reviews are not undertaken as part of the VA's quality assurance program. Compliance with applicable patient record confidentiality statutes is, of course, necessary.

The Secretary hereby certifies that this proposed regulatory amendment will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. SS 601–612. The reasons for this certification are that the proposed regulatory amendment is for the express purpose of implementing 38 U.S.C. 5705 which protects particular records generated by the VA medical quality assurance program; affects only confidential VA records; and imposes no regulatory burdens on small entities. Pursuant to 5 U.S.C. S 605(b), this proposed regulatory amendment is therefore exempt from the initial and final regulatory-flexibility analyses requirements of sections 603 and 604.

There is no Catalog of Federal Domestic Assistant Number.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: October 4, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, VA amends 38 CFR Part 17 as follows:

PART 17—MEDICAL

1. The authority citation for Part 17 is revised to read as follows:

Authority: 38 U.S.C. 501, 5705.

2. Sections 17.500 and 17.501 and the undesignated centerheading preceding § 17.500 are revised; § 17.502 is added; §§ 17.503 through 17.510 are revised; § 17.511 is added; and §§ 17.512 through 17.541 are removed as follows:

Confidentiality of Healthcare Quality Assurance Review Records

§ 17.500 General.

(a) Section 5705, title 38, United States Code was enacted to protect the integrity of the VA's medical quality assurance program by making confidential and privileged certain records and documents generated by this program and information contained therein. Disclosure of quality assurance records and documents made confidential and privileged by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511 may only be made in accordance with the provisions of 38 U.S.C. 5705 and those regulations.

(b) The purpose of the regulations in §§ 17.500 through 17.511 is to specify and provide for the limited disclosure of those quality assurance documents which are confidential under the provisions of 38 U.S.C. 5705.

(c) For purposes of the regulations in §§ 17.500 through 17.511, the VA's medical quality assurance program consists of systematic healthcare reviews carried out by or for VA for the purpose of improving the quality of medical care or improving the utilization of healthcare resources in VA medical facilities. These review activities may involve continuous or periodic data collection and may relate to either the structure, process, or outcome of health care provided in the VA.

(d) Nothing in the regulations in §§ 17.500 through 17.511 shall be construed as authority to withhold any record or document from a committee or subcommittee of either House of Congress or any joint committee or subcommittee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

(e) The regulations in §§ 17.500 through 17.511 do not waive the sovereign immunity of the United States, and do not waive the confidentiality provisions and disclosure restrictions of 38 U.S.C. 5705.

(Authority: 38 U.S.C. 5705)

§ 17.501 Confidential and privileged documents.

(a) Documents and parts of documents are considered confidential and privileged if they were produced by or for the VA in the process of conducting systematic healthcare reviews for the purpose of improving the quality of health care or improving the utilization of healthcare resources in VA healthcare facilities and meet the criteria in paragraphs (b) and (c) of this section. The four classes of healthcare quality assurance reviews with examples are:

(1) Monitoring and evaluation reviews conducted by a facility:

(i) Medical records reviews,

(ii) Drug usage evaluations,

(iii) Blood usage reviews,

(iv) Surgical case/invasive procedure reviews,

(v) Service and program monitoring including monitoring performed by individual services or programs, several services or programs working together, or individuals from several services or programs working together as a team,

(vi) Mortality and morbidity reviews,

(vii) Infection control review and surveillance,

(viii) Occurrence screening,

(ix) Tort claims peer reviews (except reviews performed to satisfy the

requirements of a governmental body or a professional health care organization which is licensing practitioners or monitoring their professional performance),

(x) Admission and continued stay reviews,

(xi) Diagnostic studies utilization reviews,

(xii) Reports of special incidents (VA Form 10-2633 or similar forms) and follow-up documents unless developed during or as a result of a Board of Investigation;

(2) Focused reviews which address specific issues or incidents and which are designated by the reviewing office at the outset of the review as protected by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511; focused reviews may be either:

(i) Facility focused reviews;

(ii) VA Central Office or Regional focused reviews;

(3) VA Central Office or Regional general oversight reviews to assess facility compliance with VA program requirements if the reviews are designated by the reviewing office at the outset of the review as protected by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511; and

(4) Contracted external reviews of care, specifically designated in the contract or agreement as reviews protected by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511.

(b) The Under Secretary for Health, Regional Director or facility Director will describe in advance in writing those quality assurance activities included under the classes of healthcare quality assurance reviews listed in paragraph (a) of this section. Only documents and parts of documents resulting from those activities which have been so described are protected by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511. If an activity is not described in a VA Central Office or Regional policy document, this requirement may be satisfied at the facility level by description in advance of the activity and its designation as protected in the facility quality assurance plan or other policy document.

(c) Documents and parts of documents generated by activities which meet the criteria in paragraphs (a) and (b) of this section shall be confidential and privileged only if they:

(1) Identify, either implicitly or explicitly, individual practitioners, patients, or reviewers except as provided in paragraph (g)(6) of this section; or

(2) Contain discussions relating to the quality of VA medical care or utilization of VA medical resources by healthcare evaluators during the course of a review of quality assurance information or data, even if they do not identify practitioners, patients, or reviewers; or

(3) Are individual committee, service, or study team minutes, notes, reports, memoranda, or other documents either produced by healthcare evaluators in deliberating on the findings of healthcare reviews, or prepared for purposes of discussion or consideration by healthcare evaluators during a quality assurance review; or

(4) Are memoranda, letters, or other documents from the medical facility to the Regional Director or VA Central Office which contain information generated by a quality assurance activity meeting the criteria in § 17.501 (a) and (b); or

(5) Are memoranda, letters, or other documents produced by the Regional Director or VA Central Office which either respond to or contain information generated by a quality assurance activity meeting the criteria in § 17.501 (a) and (b).

(d) Documents which meet the criteria in this section are confidential and privileged whether they are produced at the medical facility, Regional or VA Central Office levels, or by external contractors performing healthcare quality assurance reviews.

(e) Documents which are confidential and privileged may be in written, computer, electronic, photographic or any other form.

(f) Documents which contain confidential and privileged material in one part, but not in others, such as Clinical Executive Board minutes, should be filed and maintained as if the entire document was protected by 38 U.S.C. 5705. This is not required if the confidential and privileged material is deleted.

(g) The following records and documents and parts of records and documents are not confidential even if they meet the criteria in paragraphs (a) through (c) of this section:

(1) Statistical information regarding VA healthcare programs or activities that does not implicitly or explicitly identify individual VA patients or VA employees or individuals involved in the quality assurance process;

(2) Summary documents or records which only identify study topics, the period of time covered by the study, criteria, norms, and/or major overall findings, but which do not identify individual healthcare practitioners, even by implication;

(3) The contents of Credentialing and Privileging folders as described in VACO policy documents (38 U.S.C. 5705-protected records shall not be filed in Credentialing and Privileging folders);

(4) Records and documents developed during or as a result of Boards of Investigations;

(5) Completed patient satisfaction survey questionnaires and findings from patient satisfaction surveys;

(6) Records and documents which only indicate the number of patients treated by a practitioner, either by diagnosis or in aggregate, or number of procedures performed by a practitioner, either by procedure or in aggregate;

(7) Records and documents developed during or as a result of reviews performed to satisfy the requirements of a governmental body or a professional healthcare organization which is licensing practitioners or monitoring their professional performance, e.g., National Practitioner Data Bank, Federation of State Medical Boards, and National Council of State Boards of Nursing;

(8) Documents and reports developed during or as a result of site visits by the Office of the Medical Inspector except to the extent that the documents and reports contain information that meets the criteria described in this section and are produced by or for VA by other than the Office of Medical Inspector;

(9) External reviews conducted by VA Central Office or a Region other than those designated by the reviewing office under paragraph (a)(2) or (a)(3) of this section as protected by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511;

(10) Documents and reports of Professional Standards Boards, Credentialing Committees, Executive Committees of Medical Staff, and similar bodies, insofar as the documents relate to the credentialing and privileging of practitioners;

(11) Documents and reports developed during or as a result of data validation activities;

(12) Documents and reports developed during or as a result of occupational health monitoring;

(13) Documents and reports developed during or as a result of safety monitoring not directly related to the care of specified individual patients;

(14) Documents and reports developed during or as a result of resource management activities not directly related to the care of specified individual patients; and

(15) Information and records derived from patient medical records or facility administrative records, which are not protected by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511, may be sent or communicated to a third

party payor who has asked for this information in response to a VA request for reimbursement based on Public Law 99–272 and Public Law 101–508. Reviews conducted at the request of the third party payor do not generate records protected by 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511 since the reviews are not undertaken as part of the VA's quality assurance program.

(Authority: 38 U.S.C. 5705)

§ 17.502 Applicability of other statutes.

(a) Disclosure of quality assurance records and documents which are not confidential and privileged under 38 U.S.C. 5705 and the confidentiality regulations in §§ 17.500 through 17.511 will be governed by the provisions of the Freedom of Information Act, and, if applicable, the Privacy Act and any other VA or federal confidentiality statutes.

(b) When included in a quality assurance review, confidential records protected by other confidentiality statutes such as 5 U.S.C. 552a (the Privacy Act), 38 U.S.C. 7332 (drug and alcohol abuse, sickle cell anemia, HIV infection), and 38 U.S.C. 5701 (veterans' names and addresses) retain whatever confidentiality protection they have under these laws and applicable regulations and will be handled accordingly. To the extent that information protected by 38 U.S.C. 5701 or 7332 or the Privacy Act is incorporated into quality assurance records, the information in the quality assurance records is still protected by these statutes.

(Authority: 38 U.S.C. 5705)

§ 17.503 Improper disclosure.

(a) Improper disclosure is the disclosure of confidential and privileged healthcare quality assurance review records or documents (or information contained therein), as defined in § 17.501, to any person who is not authorized access to the records or documents under the statute and the regulations in §§ 17.500 through 17.511.

(b) "Disclosure" means the communication, transmission, or conveyance in any way of any confidential and privileged quality assurance records or documents or information contained in them to any individual or organization in any form by any means.

(Authority: 38 U.S.C. 5705)

§ 17.504 Disclosure methods.

(a) Disclosure of confidential and privileged quality assurance records and documents or the information contained therein outside VA, where permitted by the statute and the regulations in §§ 17.500 through 17.511, will always be by copies, abstracts, summaries, or similar records or documents prepared by the Department of Veterans Affairs and released to the requestor. The original confidential and privileged quality assurance records and documents will not be removed from the VA facility by any person, VA employee or otherwise, except in accordance with § 17.508(c) or where otherwise legally required.

(b) Disclosure of confidential and privileged quality assurance records and documents to authorized individuals under either § 17.508 or § 17.509 shall bear the following statement: "These documents or records (or information contained herein) are confidential and privileged under the provisions of 38 U.S.C. 5705, which provide for fines up to $20,000 for unauthorized disclosures thereof, and the implementing regulations. This material shall not be disclosed to anyone without authorization as provided for by that law or the regulations in §§ 17.500 through 17.511."

(Authority: 38 U.S.C. 5705)

§ 17.505 Disclosure authorities.

The VA medical facility Director, Regional Director, Under Secretary for Health, or their designees are authorized to disclose any confidential and privileged quality assurance records or documents under their control to other agencies, organizations, or individuals where 38 U.S.C. 5705 or the regulations in §§ 17.500 through 17.511 expressly provide for disclosure.

(Authority: 38 U.S.C. 5705)

§ 17.506 Appeal of decision by Veterans Health Administration to deny disclosure.

When a request for records or documents subject to the regulations in §§ 17.500 through 17.511 is denied in whole or in part by the VA medical facility Director, Regional Director or Under Secretary for Health, the VA official denying the request in whole or in part will notify the requestor in writing of the right to appeal this decision to the General Counsel of the Department of Veterans Affairs within 60 days of the date of the denial letter. The final Department decision will be made by the General Counsel or the Deputy General Counsel.

(Authority: 38 U.S.C. 5705)

§ 17.507 Employee responsibilities.

(a) All VA employees and other individuals who have access to records designated as confidential and privileged under 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511 will treat the findings, views, and actions relating to quality assurance in a confidential manner.

(b) All individuals who have had access to records designated as confidential and privileged under 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511 will not disclose such records or information therein to any person or organization after voluntary or involuntary termination of their relationship to the VA.

(Authority: 38 U.S.C. 5705)

§ 17.508 Access to quality assurance records and documents within the agency.

(a) Access to confidential and privileged quality assurance records and documents within the Department pursuant to this section is restricted to VA employees (including consultants and contractors of VA) who have a need for such information to perform their government duties or contractual responsibilities and who are authorized access by the VA medical facility Director, Regional Director, the Under Secretary for Health, or their designees or by the regulations in §§ 17.500 through 17.511.

(b) To foster continuous quality improvement, practitioners on VA rolls, whether paid or not, will have access to confidential and privileged quality assurance records and documents relating to evaluation of the care they provided.

(c) Any quality assurance record or document, whether confidential and privileged or not, may be provided to the General Counsel or any attorney within the Office of General Counsel, wherever located. These documents may also be provided to a Department of Justice (DOJ) attorney who is investigating a claim or potential claim against the VA or who is preparing for litigation involving the VA. If necessary, such a record or document may be removed from the VA medical facility to the site where the General Counsel or any attorney within the Office of General Counsel or the DOJ attorney is conducting an investigation or preparing for litigation.

(d) Any quality assurance record or document or the information contained therein, whether confidential and privileged or not, will be provided to the Department of Veterans Affairs Office of Inspector General upon request. A written request is not required.

(e) To the extent practicable, documents accessed under paragraph (b) of this section will not include the

identity of peer reviewers. Reasonable efforts will be made to edit documents so as to protect the identities of reviewers, but the inability to completely do so will not bar access under paragraph (b).

(f) No individual shall be permitted access to confidential and privileged quality assurance records and documents identified in § 17.501 unless such individual has been informed of the penalties for unauthorized disclosure. Any misuse of confidential and privileged quality assurance records or documents shall be reported to the appropriate VHA official, e.g., Service Chief, Medical Center Director.

(g) In general, confidential and privileged quality assurance records and documents will be maintained for a minimum of 3 years and may be held longer if needed for research studies or quality assurance or legal purposes.

(Authority: 38 U.S.C. 5705)

§ 17.509 Authorized disclosure: Non-Department of Veterans Affairs requests.

(a) Requests for confidential and privileged quality assurance records and documents from organizations or individuals outside VA must be made to the Department and must specify the nature and content of the information requested, to whom the information should be transmitted or disclosed, and the purpose listed in paragraphs (b) through (j) of this section for which the information requested will be used. In addition, the requestor will specify to the extent possible the beginning and final dates of the period for which disclosure or access is requested. The request must be in writing and signed by the requestor. Except as specified in paragraphs (b) and (c) of this section, these requests should be forwarded to the Director of the facility in possession of the records or documents for response. The procedures outlined in 38 CFR 1.500 through 1.584 will be followed where applicable.

(b) Disclosure shall be made to Federal agencies upon their written request to permit VA's participation in healthcare programs including healthcare delivery, research, planning, and related activities with the requesting agencies. Any Federal agency may apply to the Under Secretary for Health for approval. If the VA decides to participate in the healthcare program with the requestor, the requesting agency will enter into an agreement with VA to ensure that the agency and its staff will ensure the confidentiality of any quality assurance records or documents shared with the agency.

(c) Qualified persons or organizations, including academic institutions, engaged in healthcare program activities shall, upon request to and approval by the Under Secretary for Health, Regional Director, medical facility Director, or their designees, have access to confidential and privileged medical quality assurance records and documents to permit VA participation in a healthcare activity with the requestor, provided that no records or documents are removed from the VA facility in possession of the records.

(d) When a request under paragraphs (b) or (c) of this section concerns access for research purposes, the request, together with the research plan or protocol, shall first be submitted to and approved by an appropriate VA medical facility Research and Development Committee and then approved by the Director of the VA medical facility. The VA medical facility staff together with the qualified person(s) conducting the research shall be responsible for the preservation of the anonymity of the patients, clients, and providers and shall not disseminate any records or documents which identify such individuals directly or indirectly without the individual's consent. This applies to the handling of data or information as well as reporting or publication of findings. These requirements are in addition to other applicable protections for the research.

(e) Individually identified patient medical record information which is protected by another statute as provided in § 17.502 may not be disclosed to a non-VA person or organization, including disclosures for research purposes under paragraph (d), except as provided in that statute.

(f) Under paragraph (b), the Under Secretary for Health or designee or under paragraph (c), the Under Secretary for Health, Regional Director, medical facility Director, or their designees may approve a written request if it meets the following criteria:

(1) Participation by VA will benefit VA patient care; or

(2) Participation by VA will enhance VA medical research; or

(3) Participation by VA will enhance VA health services research; or

(4) Participation by VA will enhance VA healthcare planning or program development activities; or

(5) Participation by VA will enhance related VA healthcare program activities; and

(6) Access to the record by the requester is required for VA to participate in a healthcare program with the requester.

(g) Protected quality assurance records or documents, including records pertaining to a specific individual, will for purposes authorized under law be disclosed to a civil or criminal law enforcement governmental agency or instrumentality charged under applicable law with the protection of public health or safety, including state licensing and disciplinary agencies, if a written request for such records or documents is received from an official of such an organization. The request must state the purpose authorized by law for which the records will be used. The Under Secretary for Health, Regional Director, medical facility Director, or their designees will determine the extent to which the information is disclosable.

(h) Federal agencies charged with protecting the public health and welfare, federal and private agencies which engage in various monitoring and quality control activities, agencies responsible for licensure of individual health care facilities or programs, and similar organizations will be provided confidential and privileged quality assurance records and documents if a written request for such records or documents is received from an official of such an organization. The request must state the purpose for which the records will be used. The Under Secretary for Health, Regional Director, medical facility Director, or their designees will determine the extent to which the information is disclosable.

(i) JCAHO (Joint Commission on Accreditation of Healthcare Organizations) survey teams and similar national accreditation agencies or boards and other organizations requested by VA to assess the effectiveness of quality assurance program activities or to consult regarding these programs are entitled to disclosure of confidential and privileged quality assurance documents with the following qualifications:

(1) Accreditation agencies which are charged with assessing all aspects of medical facility patient care, e.g., JCAHO, may have access to all confidential and privileged quality assurance records and documents.

(2) Accreditation agencies charged with more narrowly focused review (e.g., College of American Pathologists, American Association of Blood Banks, Nuclear Regulatory Commission, etc.) may have access only to such confidential and privileged records and documents as are relevant to their respective focus.

(j) Confidential and privileged quality assurance records and documents shall be released to the General Accounting Office if such records or documents pertain to any matter within its jurisdiction.

(k) Confidential and privileged quality assurance records and documents shall be released to both VA and non-VA healthcare personnel upon request to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

(l) For any disclosure made under paragraphs (a) through (i) of this section, the name of and other identifying information regarding any individual VA patient, employee, or other individual associated with VA shall be deleted from any confidential and privileged quality assurance record or document before any disclosure under these quality assurance regulations in §§ 17.500 through 17.511 is made, if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy.

(m) Disclosure of the confidential and privileged quality assurance records and documents identified in § 17.501 will not be made to any individual or agency until that individual or agency has been informed of the penalties for unauthorized disclosure or redisclosure.

(Authority: 38 U.S.C. 5705)

§ 17.510 Redisclosure.

No person or entity to whom a quality assurance record or document has been disclosed under § 17.508 or § 17.509 shall make further disclosure of such record or document except as provided for in 38 U.S.C. 5705 and the regulations in §§ 17.500 through 17.511.

(Authority: 38 U.S.C. 5705)

§ 17.511 Penalties for violations.

Any person who knows that a document or record is a confidential and privileged quality assurance document or record described in §§ 17.500 through 17.511 and willfully discloses such confidential and privileged quality assurance record or document or information contained therein, except as authorized by 38 U.S.C. 5705 or the regulations in §§ 17.500 through 17.511, shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of each subsequent offense.

(Authority: 38 U.S.C. 5705)

[FR Doc. 94–26210 Filed 10–21–94; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD-FRL–5092–4]

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of partial stay and reconsideration.

SUMMARY: Today's action announces a partial 3-month stay of certain national emission standards for hazardous air pollutants for certain sources. The effectiveness of the "National Emission Standards for Hazardous Air Pollutants for Source Categories; Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks" (April 22, 1994) and (June 6, 1994) (collectively known as the "hazardous organics NESHAP" or the "HON"), including the applicable compliance dates, is stayed for 3 months pending reconsideration. The EPA is issuing this stay pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator authority to stay the effectiveness of a rule during reconsideration.

Elsewhere in the Proposed Rules Section of today's **Federal Register** EPA proposes to defer compliance with the HON for sources meeting certain criteria, and to extend the compliance date for sources affected by today's stay, for as long as is necessary to complete the rulemaking granting this deferral.

This stay affects only those sources for which the owner or operator makes a representation in writing to the Administrator that the resolution of the area source definition issues could have an effect on the compliance status of the source with respect to subparts F, G, H, and I of part 63.

EFFECTIVE DATE: October 24, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Smith at (919) 541–4718, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Background

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196), the Environmental Protection Agency promulgated in the **Federal Register** a NESHAP for the synthetic organic chemical manufacturing industry, and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H, and I in 40 CFR part 63, and are commonly referred to as the hazardous organics NESHAP, or the HON. Section 63.100 of the rule provides that the rule is applicable to chemical manufacturing process units that, among other requirements, "are located at a plant site that is a major source as defined in section 112(a) of the Act."

Section 112(a) of the Act defines a "major source" as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants * * *" Any stationary source that does not emit, or have the potential to emit, these quantities, is defined by the Act as an "area source." On March 16, 1994, EPA promulgated, in subpart A to 40 CFR part 63, a definition of "potential to emit." A key aspect of the potential to emit definition is that restrictions must be federally enforceable.

The EPA is in the process of clarifying the administrative procedures that can be used by source owners and operators to create federally enforceable restrictions on potential to emit. However, in the interim there may be sources that would qualify as area sources exempt from the HON which do not have the ability to demonstrate to EPA that their potential to emit is below major source levels. A petition for reconsideration has been submitted to EPA requesting that the HON be revised such that sources that may be area are not required to comply with the HON due to their inability to prove that they are area sources. For this reason EPA is staying the HON for 3 months in order to respond to the petition for reconsideration and revise the rule as necessary to resolve this issue.

The EPA believes that the majority of HON-affected sources emit well above major source levels. Accordingly, today's stay does not affect all sources.

II. Issuance of Stay

The EPA hereby issues a 3-month administrative stay of the effectiveness of the HON, including the applicable compliance dates. EPA will reconsider the compliance dates in the rule and following the notice and comment procedures of section 307(d) of the Clean Air Act, will take appropriate action. This administrative stay applies only to those source owners or operators who make a representation in writing to the Administrator that the resolution of the area source definition issues could affect whether the facility is subject to the HON.

III. Authority for Stay and Reconsideration

The administrative stay and reconsideration of the HON and its associated compliance periods announced by this notice are being undertaken pursuant to section 307(d)(7)(B) of the Clean Air Act, 42 U.S.C. 7607(d)(7)(B). That provision authorizes the Administrator to stay the effectiveness of a rule for 3 months in order to consider a request for reconsideration. Reconsideration is appropriate if the grounds for an objection arose after the period for public comment and if the objection is of central relevance to the outcome of the rule.

The grounds for reconsideration of this rule arose after the public comment period. The lack of a mechanism by which to ensure federal enforceability of a source's potential to emit only became apparent after the close of comment on the rule. Therefore, EPA is staying the effectiveness of the rule for 3 months in order to allow time to reconsider this issue.

IV. Proposed Compliance Extension

The EPA may not be able to complete the reconsideration (including any appropriate regulatory action) of the rule stayed by this notice within the 3-month period expressly provided in section 307(d)(7)(B). If EPA does not complete the reconsideration in this timeframe then it will be necessary to temporarily extend the applicable compliance dates. In the Proposed Rule Section of today's **Federal Register** EPA proposes a temporary extension of the compliance dates beyond 3 months if necessary in order to complete reconsideration and revision of the rules in question.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.

Dated: October 11, 1994.

Carol M. Browner,

Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 63, subparts F, G, H, and I are being amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

2. Section 63.100 is amended by adding paragraph (n) to read as follows:

§ 63.100 Applicability and designation of source.

* * * * *

(n) *Rules Stayed for Reconsideration.* Notwithstanding any other provision of this subpart, the effectiveness of subpart F is stayed from October 24, 1994, to January 23, 1995 only as applied to those sources for which the owner or operator makes a representation in writing to the Administrator that the resolution of the area source definition issues could have an effect on the compliance status of the source with respect to subpart F.

3. Section 63.110 is amended by adding paragraph (g) to read as follows:

§ 63.110 Applicability.

* * * * *

(g) *Rules Stayed for Reconsideration.* Notwithstanding any other provision of this subpart, the effectiveness of subpart G is stayed from October 24, 1994, to January 23, 1995 only as applied to those sources for which the owner or operator makes a representation in writing to the Administrator that the resolution of the area source definition issues could have an effect on the compliance status of the source with respect to subpart G.

4. Section 63.160 is amended by adding paragraph (d) to read as follows:

§ 63.160 Applicability and designation of source.

* * * * *

(d) *Rules Stayed for Reconsideration.* Notwithstanding any other provision of this subpart, the effectiveness of subpart H is stayed from October 24, 1994, to January 23, 1995 only as applied to those sources for which the owner or operator makes a representation in writing to the Administrator that the resolution of the area source definition issues could have an effect on the compliance status of the source with respect to subpart H.

5. Section 63.190 is amended by adding paragraph (h) to read as follows:

§ 63.190 Applicability and designation of source.

* * * * *

(h) *Rules Stayed for Reconsideration.* Notwithstanding any other provision of this subpart, the effectiveness of subpart I is stayed from October 24, 1994, to January 23, 1995 only as applied to those sources for which the owner or operator makes a representation in writing to the Administrator that the resolution of the area source definition issues could have an effect on the compliance status of the source with respect to subpart I.

[FR Doc. 94–25742 Filed 10–21–94; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 201–20

[FIRMR Interim Rule 2]

RIN 3090—AE71

Amendment of FIRMR Provisions To Modify Requirements for Obtaining Delegations of Procurement Authority

AGENCY: Information Resources Management Service, GSA.

ACTION: Interim rule with request for comments.

SUMMARY: This amendment to the Federal Information Resources Management Regulation (FIRMR) revises policies regarding delegations of procurement authority from GSA for the acquisition of Federal information processing (FIP) resources. Currently, GSA authorizes agencies to make individual purchases of up to $2.5 million in information technology equipment and services. This rule raises the authorization levels to $20 million, $10 million and $5 million based on the size of an agency's information technology budget and its management record. In return for the higher thresholds, agencies will be required to identify and justify their information technology acquisition requirements in terms of functional and measurable outcomes. These outcomes will be related to business objectives. Examples of outcomes may include faster delivery of service to the client, reduction of billing time, or reduction of agency expenditures. GSA will continually review acquisitions performed under its authorities to assist agencies to meet the needs of the end user, achieve acquisition requirements, and obtain favorable prices compared to market trends. Programs not proceeding as

planned are subject to withdrawal of delegated authorities.

In addition to increasing the dollar amounts of regulatory delegations thresholds, this interim rule changes the basis upon which specific acquisition delegations are required from the dollar value of each type of resource to the combined dollar value of FIP resources; clarifies that delegations are not required when using GSA Governmentwide programs; and strongly encourages agency Designated Senior Officials to redelegate 50 percent of GSA's exclusive procurement authority for FIP resources to qualified officials at other levels.

DATES: This amendment is effective immediately upon publication. Comments will be considered in the final rule, but must be received on or before November 23, 1994.

ADDRESSES: Comments may be mailed to GSA, Regulations Analysis Division (KMR), 18th and F Streets, NW., Room 3224, Washington, DC 20405, Attn: Anne Horth, or delivered to that address between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Anne Horth, FTS/Commercial (202) 501–0960 (v) or FTS/Commercial (202) 501–0657 (tdd).

SUPPLEMENTARY INFORMATION: (1) This interim rule will enable GSA to focus on high dollar, high risk, more complex systems. It will also provide more authority to agencies, while, at the same time, increased measures of accountability and outcomes. The increased authority allows agencies to streamline their internal acquisition management and review functions. It also provides an opportunity for more expeditious and efficient acquisitions, especially with regard to the lower dollar, less complex requirements.

(2) This amendment clarifies that a delegation is not required for multiagency contracts awarded by GSA that are approved for Governmentwide use. This includes FTS2000, local telecommunications services contracts, the Financial Management Systems Software schedule, or other services provided, or contracts established, by GSA.

(3) An explanation of the changes being made follows:

(a) Subsection 201–20.305(a) is amended to encourage Designated Senior Officials (DSOs) to redelegate 50 percent of the monetary value of GSA's delegated procurement authority to other qualified agency officials at lower organizational levels where sufficient expertise exists. Such redelegations will expedite FIP acquisitions and provide for a more efficient process. DSOs who elect not to redelegate at the 50 percent level, or who withdraw earlier delegations, must advise GSA in writing of the circumstances that will not allow redelegation and the management action being taken to allow such redelegation in the future.

Subsection 201–20.305–1 is amended to grant delegations on the basis of the total estimated costs of all FIP requirements (equipment, software, services, support services, and FIP-related supplies when the resources are procured as an integral part of an acquisition), including all option items and option periods, over the life of the contract. The current regulatory delegation thresholds apply to each type of resource (i.e., equipment, software, or services), but include all optional items and option periods. To simplify determining when a delegation is needed, the application of delegations thresholds is being changed from individual resources to the combined requirements for all resources over the life of the contract. Subsection 201–20.305–1 is also amended to change the manner in which regulatory delegations are established. Instead of the same delegation threshold applying to all agencies, regulatory thresholds will be based on the size of an agency's information technology (IT) budget. Agencies are placed in one of three groups depending on the size of their IT budget. The categories and amounts being established by this amendment are:

—$20,000,000 ($2,000,000 for a specific make and model specification or for a requirement available from only one responsible source). This threshold applies to the group of agencies having the largest IT budgets.

—$10,000,000 ($1,000,000 for a specific make and model specification or for a requirement available from only one responsible source). This threshold applies to a group of agencies having the next largest IT budgets.

—$5,000,000 ($500,000 for a specific make and model specification or for a requirement available from only one responsible source). This threshold applies to all other agencies.

Agencies will be required to submit performance measurement data in accordance with procedures in FIRMR Bulletin C–5, "Delegation of procurement authority for a specific acquisition".

GSA has the authority to increase or decrease regulatory delegation thresholds through the use of specific agency thresholds. The latter are based on how effectively and efficiently an agency acquires FIP resources and manages its IRM program. Performance measurement data that agencies submit will be a significant factor in determining agency delegations thresholds.

(c) Subsection 201–20.305–1 is amended to list the GSA programs that do not require a delegation of procurement authority prior to use by agencies.

(3) This rule was submitted to, and approved by, the Office of Management and Budget in accordance with Executive Order 12866, Regulatory Planning and Review.

(4) The recordkeeping provisions of the Paperwork Reduction Act do not apply because the FIRMR changes do not impose 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 41 CFR Part 201–20

Archives and records, Computer technology, Federal information processing resources activities, Government procurement, Property management, Records management, and Telecommunications.

For the reasons set forth in the preamble, GSA is amending 41 CFR Part 201–20 as follows:

PART 201–20—ACQUISITION

1. The authority citation for Part 201–20 continues to read as follows:

Authority: 40 U.S.C. 486(c) and 751(f).

2. Section 201–20.305 is amended by revising paragraph (a)(3) and adding new paragraphs (a) (5) and (6) as follows:

§ 201–20.305 Delegation of GSA's exclusive procurement authority.

(a) * * *

(3) The agency's DSO should redelegate, at a maximum, 50 percent of the monetary value of GSA's delegated exclusive authorities for FIP resources to qualified officials possessing the expertise to conduct and manage FIP acquisitions.

* * * * *

(5) DSO's who elect not to redelegate 50 percent of the monetary value of the delegated authority, or who withdraw a delegation, shall advise GSA/KMA, 18th and F Streets, NW, Washington, DC 20405, in writing, of the circumstances involving such redelegations and their new plan regarding redelegations within the agency.

(6) Under this section:

(i) Agencies will justify their information technology acquisition

requirements in terms of functional and measurable outcomes for the client and the taxpayer.

(ii) GSA will continually review acquisitions performed under its authorities with the goal of assisting agencies to meet acquisition requirements and achieving favorable prices compared to market trends. Programs not proceeding as planned are subject to withdrawal of delegated authorities.

* * * * *

3. Section 201–20.305–1 is amended by removing the introductory text to the section; revising paragraphs (a)(1) introductory text, (a)(3) and (b); and removing paragraph (c) as follows:

§ 201–20.305–1 Regulatory delegations.

(a) * * *

(1) FIP equipment, software, services, support services, and related supplies (if the acquisition is not solely for related supplies) when the total estimated dollar value of all of the FIP resources to be acquired under the contract, including all optional items and all option periods, does not exceed $20,000,000 ($2,000,000 for a specific make and model or a requirement available from only one responsible source) for Department of the Air Force, Department of the Army, Department of Defense/Office of the Secretary of Defense, Department of Energy, Department of Health and Human Services, Department of the Navy, Department of Transportation, Department of the Treasury, and National Aeronautics and Space Administration; $10,000,000 ($1,000,000 for a specific make and model or a requirement available from only one responsible source) for Department of Agriculture, Department of Commerce, Environmental Protection Agency, General Services Administration, Department of the Interior, Department of Justice, Department of State, and Department of Veterans Affairs; $5,000,000 ($500,000 for a specific make or model or a requirement available from only one responsible source) for all other agencies; and if either paragraph (a)(1)(i), (ii), or (iii) of this section applies:

* * * * *

(3) FIP resources from the following GSA contracting programs do not require delegations of procurement authority:

(i) FTS2000 Program.

(ii) Consolidated Local Telecommunications Services Program.

(iii) Financial Management Systems Software Multiple Award Schedule Contracts Program.

(iv) Purchase of Telephones and Services Program.

(v) Other multiagency services and contracts provided by GSA's Information Resources Management Service (IRMS) unless the service results in a contract which will be turned over to the agency after award. (A delegation is required for agency acquisitions conducted by IRMS when the contract will be turned over to the agency after award. This includes agency acquisitions conducted by the Federal Computer Acquisition Center (FEDCAC)).

(b) When FIP equipment, software, services, and support services (or any combination thereof) are combined and acquired under a single contract action, a specific acquisition delegation shall be required when the dollar value of all combined resources exceeds the regulatory dollar thresholds in paragraph (a)(1) of this section, or any specific agency delegation threshold.

Dated: October 11, 1994.

Roger W. Johnson,

Administrator of General Services.

[FR Doc. 94–26121 Filed 10–21–94; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7097

[AK–932–4210–06; AA–56429]

Public Land Order No. 7046, Correction; Partial Revocation of Executive Order No. 1919½, as Amended, and Revocation of Public Land Order No. 219, as Amended; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will correct two errors in the date of Executive Order No. 1919½, as stated in Public Land Order No. 7046.

EFFECTIVE DATE: October 24, 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:

The date of Executive Order No. 1919½, as stated in Public Land Order No. 7046, 59 FR 24648, May 12, 1994, is hereby corrected as follows:

On page 24648, first column, line 6 of the heading which reads "Dated February 14, 1921" is hereby corrected to read "Dated April 21, 1914." In the second column, line 3 of paragraph number 1, which reads "dated February 14, 1921" is hereby corrected to read "dated April 21, 1914."

Dated: October 5, 1994.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 94–26302 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–JA–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 205 and 206

RIN 3067–AC32

Disaster Assistance for Disasters Declared Before November 23, 1988

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule removes 44 CFR 205, Federal Disaster Assistance (Public Law 93–288), in recognition that most files have been closed on disasters declared before November 23, 1988 to which 44 CFR 205 applied. This rule also amends 44 CFR 206 to inform those who need to refer to 44 CFR 205 where they may find the prior regulations.

EFFECTIVE DATE: October 24, 1994.

FOR FURTHER INFORMATION CONTACT: H. Crane Miller, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3340.

SUPPLEMENTARY INFORMATION: This rule removes part 205 from title 44 of the Code of Federal Regulations. Part 205 prescribed the standards and procedures to be followed in implementing the Federal disaster assistance parts of the Disaster Relief Act of 1974, Pub. L. 93–288, assigned to the Director of FEMA by Executive Order 12148. Part 205 applied to disasters declared before November 23, 1988.

The Disaster Relief Act of 1974 was amended by Pub. L. 100–707, signed on November 23, 1988, and was renamed the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The Stafford Act added certain emergency and other authorities that the President delegated to the Director of FEMA in Executive Order 12673. In order to update and consolidate its regulations on disaster assistance FEMA published a new 44 CFR part 206. Previous authorities under the Disaster Relief Act of 1974 were basically

continued and new authorities under the Stafford Act were implemented in part 206, to apply to disasters and emergencies declared by the President on or after November 23, 1988.

In recognition that files on disasters remained open after the Stafford Act was enacted, FEMA continued to publish part 205 for those disasters declared before November 23, 1988. Today most of the files have been closed on disasters declared before that date. Since most of those files have been closed, and to reduce any confusion caused by the presence of both part 205 and part 206, we are removing 44 CFR part 205.

This rule amends 44 CFR 206 to inform readers that the last edition of 44 CFR in which part 205 appeared was the edition revised as of October 1, 1994. Any person needing to refer to part 205 should see that edition.

List of Subjects in 44 CFR Part 206

Coastal zone, Community facilities, Disaster assistance, Fire prevention, Grant programs-housing and community development, Housing, Insurance, Loan programs-housing and community development, Natural resources, Penalties, Reporting and recordkeeping requirements.

Accordingly, 44 CFR subchapter D is amended as follows:

1. Under the authority of 42 U.S.C. 5121 *et seq.* part 205 is removed.

2. The authority citation for part 206 continues to read as follows:

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq.; Reorganization Plan No. 3 of 1978, 5 U.S.C. App.1; E.O. 12148, 3 CFR, 1979 Comp., p. 412; and E.O. 12673, 3 CFR, 1989 Comp., p. 214.

3. Section 206.1 is revised to read as follows:

§ 206.1 Purpose.

(a) *Purpose.* The purpose of this subpart is to prescribe the policies and procedures to be followed in implementing those sections of Public Law 93–288, as amended, delegated to the Director, Federal Emergency Management Agency (FEMA). The rules in this subpart apply to major disasters and emergencies declared by the President on or after November 23, 1988, the date of enactment of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.*

(b) *Prior regulations.* Prior regulations relating to major disasters and emergencies declared by the President before November 23, 1988 were published in 44 CFR part 205 (see 44 CFR part 205 as contained in the CFR edition revised as of October 1, 1994).

Dated: October 17, 1994.

Harvey G. Ryland,

Deputy Director.

[FR Doc. 94–26170 Filed 10–21–94; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21, 73, and 76

[MM Docket No. 94–34, FCC 94–255]

Report to Congress Regarding Broadcast and Cable Television EEO Rules and Policies

AGENCY: Federal Communications Commission.

ACTION: Report to Congress.

SUMMARY: This *Report* outlines the origins and history of the Commission's broadcast and cable EEO rules, policies and procedures; summarizes comments made in response to a Notice of Inquiry concerning these issues; discusses the effectiveness of the FCC's current EEO enforcement; and sets forth reasons and means for future changes to it. This Report implements Section 22(g) of the Cable Television Consumer Protection and Competition Act of 1992, which requires the Commission to file a report to Congress on the effectiveness of its EEO policies.

FOR FURTHER INFORMATION CONTACT: Hope G. Cooper, Mass Media Bureau, Enforcement Division, (202) 632–7069.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Report* in MM Docket No. 94–34, FCC 94–255, adopted and released October 5, 1994. The complete text of this *Report* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC., and may also be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Synopsis of Report

1. This Report implements Section 22(g) of the Cable Television Consumer Protection and Competition Act of 1992, which requires the Commission to file a report to Congress on the effectiveness of its EEO policies. This Report outlines the origins and history of the Commission's broadcast and cable EEO rules, policies and procedures; summarizes comments made in response to a Notice of Inquiry concerning these issues; discusses the effectiveness of the FCC's current EEO enforcement; and sets forth reasons and means for future changes to it.

2. First, the Report contains an extensive background discussion of the origins and history of the Commission's broadcast and cable EEO rules and policies, from 1968, when the Commission's involvement in the broadcast EEO area began, to the present. The Report details how the Commission's original EEO policies and rules were adopted, discusses how these policies and rules expanded and developed, and describes the Commission's current efforts-based EEO analysis. The Report also discusses the Commission's 1994 Policy Statement, which established non-binding guidelines for assessing forfeitures for violations of the Commission's broadcast EEO rule.

3. Second, to assess the effectiveness of the Commission's EEO rules and policies, the Report contains a statistical examination of female and minority representation in broadcast and cable employment between 1986 and 1993. The examination reflects that the employment of women and minorities in the broadcast and cable industries increased from 1986 to 1993 in overall and total upper-level positions, as well as in each of the upper-level job categories. In fact, the data show that most of these increases outpaced the 1.1% growth of women employees and the 2.1% growth of minority employees overall in the national workforce. Thus, while the broadcast industry has been downsizing from 1986 to 1993, the percentage of women and minorities in all job categories has been increasing.

4. The Report concludes that the Commission's present policies have been and are effective in promoting equal employment opportunity in the broadcast and cable industries. However, the Commission's examination also suggests a continued need for EEO monitoring, as the 1993 percentages of women in the broadcast and cable industries and minorities in the broadcast industry overall remain below comparable figures for the 1993 overall national workforce. Also, individual licensees sanctioned for EEO violations establish a need for further EEO monitoring.

5. Third, the Report discusses the comments received in response to the Commission's Notice of Inquiry (59 FR 23183, May 5, 1994), initiated pursuant to congressional directive, which sought comments on the effect and operation of the equal employment opportunity amendments made by the 1992 Cable Act and on the general effectiveness of

the Commission's rules, procedures, policies, standards and guidelines in promoting equality of employment opportunity in the cable, broadcast and other industries.

6. While the Report concludes that the Commission's EEO rules and policies are effective and must continue, it also concludes that more progress can and should be achieved. Further, the Report enumerates areas and concerns raised in comments filed in response to the Commission's Notice of Inquiry that may warrant further exploration. These include, but are not limited to: (1) The relevance with respect to the Commission's broadcast EEO policies of market size or staff size and part-time employees; (2) how to encourage joint recruitment efforts; (3) whether the Commission's broadcast filing requirements are unduly burdensome, and, if so, whether they can be streamlined; (4) suggested changes to the Commission's mid-term TV review procedures; (5) possible further in-depth analysis of the Commission's EEO Policy Statement; and (6) possible improvements to the Commission's broadcast renewal application forms and annual employment report forms. Additional review is also warranted in response to comments about the Commission's cable EEO rules, particularly with respect to: the relevant labor force statistics to be used in EEO reviews; the effectiveness of the cable annual employment report forms; and how the Commission might improve notification of cable operators, multichannel video program distributors, and the public concerning various EEO requirements. The Report directs the Commission staff to determine and recommend to it the appropriate procedural vehicle for addressing all of the foregoing issues.

7. Finally, the Report states the Commission's intention to institute a more extensive and far-reaching analysis of its EEO program to adapt its rules and policies to the telecommunications marketplace and workplace of the Twenty-First Century. The Report states that the Commission would consider broadening its current EEO policies to include a wider range of new and emerging communications technologies and industries as well as making other fundamental changes. Such expansion of its policies may be warranted to achieve regulatory parity in the Commission's EEO enforcement, given the convergence of telecommunications technologies. Broadening the Commission's EEO rules also may be justifiable based on the national goal of promoting participation by women and minorities in the design and deployment of advanced telecommunications services and technologies. Further, in light of technological convergence, imposing separate and unique EEO requirements on different telecommunications services may no longer be warranted.

8. The Report directs the staff to determine the best methods for addressing the EEO issues arising from technological convergence and the communications revolution. The Commission's EEO policies and goals must be reviewed with reference to the entire industry, not just individual communications services. To guide the Commission in its comprehensive analysis as to how to redesign and redirect the Commission's EEO policies thoroughly to reflect the communications revolution and bring those policies into the Twenty-First Century, the Commission expresses its intent to solicit viewpoints and data from a wide range of entities, including public interest groups, consumer groups, labor groups, trade associations, think tanks, civil rights groups, academics, other government agencies, and the communications industry. It is expected that the Commission's newly established Office of Communications Business Opportunities will play a primary role in this review and analysis. The Commission also will seek additional population and workforce data, as well as future projections about the future and statistical and economic data, as a foundation on which to build the Commission's enhanced EEO regulatory structure. Finally, the Commission will explore the extent to which training and internship programs might serve to complement EEO policies.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–26331 Filed 10–21–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 24

[PP Docket No. 93–253, FCC 94–264]

Implementation of Section 309(j) of the Communications Act—Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this *Fourth Memorandum Opinion and Order* the Commission resolves petitions for reconsideration or clarification of its rules governing the methodology and procedure for auctions to provide Personal Communications Services in the 2 GHz band (called "broadband PCS").

The rules and decisions made in this *Fourth Memorandum Opinion and Order* are designed to result in auctions that will award licenses to those who value them most highly. To achieve this goal, the Commission adopts auction rules that balance the need to allow bidders the information necessary to express the interdependency of licenses with the need to minimize complexity of the auctions. The Commission believes these rules strike a proper balance between these objectives.

EFFECTIVE DATE: October 24, 1994.

FOR FURTHER INFORMATION CONTACT: Kathleen O'Brien Ham at (202) 634–2443, or Florence Setzer at (202) 418–2038.

SUPPLEMENTARY INFORMATION: This *Fourth Memorandum Opinion and Order* in PP Docket No. 93–253, adopted October 19, 1994, and released October 19, 1994, is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street, NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, telephone (202) 857–3800.

Specifically, the Commission re-examines aspects of its rules concerning: simultaneous multiple-round auction design and procedures; application, payment and penalty procedures; and regulatory safeguards. In a future *Order*, the Commission will consider whether the public interest would be served by changing its entrepreneurs' block rules, as well as other provisions established to ensure that small businesses, rural telephone companies and businesses owned by minorities and women (collectively termed "designated entities") have a meaningful opportunity to participate in the provision of broadband PCS.

Synopsis of the Fourth Memorandum Opinion and Order

1. On August 10, 1993, the Omnibus Budget Reconciliation Act of 1993 (the Budget Act) added Section 309(j) to the Communications Act of 1934, as amended, 47 U.S.C. § 309(j). This section gives the Commission express authority to employ competitive bidding procedures to select among mutually exclusive applications for certain initial licenses. In the *Second Report and Order* in this docket, the Commission exercised its authority by determining

that broadband PCS licenses should be awarded through competitive bidding and prescribing general rules and procedures and a broad menu of competitive bidding methods to be used for all auctionable services. The Commission re-examined certain aspects of these general rules and procedures in the *Second Memorandum Opinion and Order*, released August 15, 1994.

2. In the *Fifth Report and Order*, released July 15, 1994, the Commission established specific competitive bidding rules for broadband PCS. As described more fully below, these rules, in part, set forth auction methodology, procedure, payment and safeguard provisions. The Commission decided to conduct each auction through simultaneous multiple-round bidding with simultaneous stopping rules. Under that approach, bidding will remain open on all licenses until the bidding closes on all licenses in the auction. It also established a variety of rules governing bid increments and bidding activity to move the auctions toward completion in a reasonable period of time. In addition, the Commission retained the ability to use other approaches, including sequential auctions for the licenses, and to make other adjustments to the auction process as necessary. Finally, it established pre- and post-auction application procedures; payment and default penalties; and other safeguards to prevent collusion among applicants.

Standby Bidding Queues

3. In the *Fifth Report and Order*, the Commission determined that the simultaneous multiple-round auction design would be the preferred methodology for broadband PCS auctions, primarily because there is significant interdependency among the licenses to be auctioned, and the simultaneous multiple-round auction design facilitates more efficient aggregation and imparts to bidders greater amounts of information regarding license values than the other auction designs. It reserved the authority, however, to use combinatorial bidding techniques in conjunction with simultaneous multiple-round auctions to further facilitate the efficient aggregation of licenses. On reconsideration of the general auction rules adopted in this proceeding, the Commission also noted that we would consider the use of a standby queue mechanism if it elected to use combinatorial bidding techniques. The standby queue would allow parties seeking individual licenses to coordinate their bids in order to beat a prevailing bid for a combination of licenses.

4. The standby queue is a mechanism that is useful only in the context of combinatorial bidding, and is inapplicable to simultaneous multiple-round bidding without combinatorial bidding. As the Commission noted in the *Second Memorandum Opinion and Order*, it has no current plans to use combinatorial bidding. If, however, it does adopt such an auction methodology in the future, the Commission will consider the use of a standby queue mechanism at the same time.

Activity Rules

5. In the *Fifth Report and Order*, the Commission adopted an activity rule to ensure that the auctions will close within a reasonable period of time and to increase the information conveyed by bid prices during each auction. The activity rule requires bidders to maintain certain minimum levels of bidding activity during each round of the auction to preserve their maximum bidding eligibility. The rule provides for three stages with increasing levels of activity required in each stage. The Commission concluded that in simultaneous auctions without these requirements, bidders may be inclined to hold back, causing the auction to progress exceedingly slowly or possibly causing the auction to close prematurely. Furthermore, bidders would not know whether a low level of bidding on a license means that the license price is near its final level or, instead, if many serious bidders are holding back and may bid up the price later in the auction.

6. The issues raised by petitioner GTE concerning the three-stage activity rule, and the alternative activity rule proposed by GTE, were considered in the reconsideration of the *Second Report and Order*. The Commission concluded at that time that no changes in the existing procedures were needed. The Commission sees no reason to revise that conclusion.

7. As discussed in the *Second Memorandum Opinion and Order*, the Commission does not believe, despite GTE's assertion, that its preferred three-stage activity rule will excessively restrict bidders' flexibility to bid for desired combinations of licenses, or cause licenses to be awarded to bidders who value them less than other bidders. The rules were expressly designed to counteract the incentive to delay serious bidding that may occur in simultaneous auctions, without unduly limiting bidders' flexibility to pursue backup strategies and to use new information. The requirement in the first stage that bidders remain active on one-third of the MHz-pops for which they wish to remain eligible constitutes only a minor restriction. By the time the auction enters stage III (if it ever does), bidding strategies should be well-advanced.

8. The Commission notes that, in the *Second Report and Order*, it retained the flexibility to decide on an auction-by-auction basis, and to announce by Public Notice before each auction, whether to use an activity rule, and if so, what type of rule. This flexibility was retained for broadband PCS in the *Fifth Report and Order*. Thus, if experience shows that the three-stage rule is unduly difficult to administer or excessively restricts bidders' flexibility, the Commission will have the option to shift to some other activity rule, including the one recommended by GTE requiring only that bidders be active on a single license in each round.

9. The Commission also makes some minor adjustments in the activity rules on its own motion. First, the Commission concludes, after its experience in conducting the nationwide narrowband auction, that it may be important to move the auctions from one stage to the next at a different pace than would occur under the current activity rule. Accordingly, it retains the discretion to determine and announce during the course of an auction when, and if, to move from one auction stage to the next, based on a variety of measures of bidder activity (*e.g.*, the percentage of licenses on which there are new bids, the number of new bids, and the percentage increase in revenue). Bidders will be notified of the Commission's intention to move to another stage at least one round prior to the commencement of the next stage of an auction.

10. The Commission also stated in the *Fifth Report and Order* that in stage III, a bidder would have to be active on 100 percent of the MHz-pops for which it wishes to retain eligibility. In order to allow bidders greater flexibility, the Commission thinks that it may be beneficial in auctions where high bidding is expected to reduce this figure slightly, but in no case below 95 percent. It will announce the required activity levels for stage III by Public Notice in advance of each auction.

11. Finally, in the *Fifth Report and Order* the Commission permitted bidders one waiver from the activity rule during each stage of an auction. The Commission stated that if an activity rule waiver is entered in a round in which no other bidding activity occurs, the auction will remain open, but stated that it might announce

that submission of a waiver would not keep an auction open under any circumstances. The Commission also stated that a waiver may be submitted either in the round in which bidding falls below the level required to maintain current eligibility, or prior to submitting a bid in the next round. The Commission now clarifies that it retains the discretion to modify the method and timing of submitting waivers and allows for two types of waivers—"proactive" waivers and "automatic" waivers. Both types of waivers will retain a bidder's eligibility even though its bidding activity in the current round falls below the required level. However, a proactive waiver invoked in a round in which there are no new valid bids will keep an auction open, while an automatic waiver submitted in a round in which no other bidding activity occurs will not keep an auction open. Proactive waivers must be requested by the bidder, but automatic waivers will be submitted automatically for a bidder whenever a bidder's eligibility would be reduced because of insufficient bidding activity and a waiver is available. Bidders will be afforded an opportunity to override the automatic waiver mechanism when they place a bid if they intentionally wish to reduce their bidding eligibility and do not want to use a waiver to retain their eligibility at its current level. The Commission also retains the discretion to change the number of waivers that will be permitted and the frequency with which they may be exercised by Public Notice prior to each auction. A change in the rule for moving from one stage to another may result in many more rounds being completed in one stage, and may make a rule allowing one waiver per stage inappropriate. Airtouch also recommends allowing bidders more flexibility in choosing when to use waivers.

Stopping Rule

12. In the *Fifth Report and Order*, the Commission adopted a simultaneous stopping rule for all licenses in an auction. The Commission determined that this approach would provide bidders full flexibility to modify their bidding strategy as more information became available. The Commission further concluded that the activity rule would help establish a reasonable pace and minimize the risk that bidders would hold back their bidding until the final rounds. However, the Commission retained the discretion to use a hybrid stopping rule or to allow bidding to close individually for BTA licenses if it determines that the present rule is too complex. In addition, the Commission retained discretion to declare at any point after 40 rounds in a simultaneous multiple round auction that the auction will end after some specified number (probably three) of additional rounds. However, if the Commission exercises this authority it will accept bids in the final round(s) only for licenses on which the highest bid had increased in at least one of the preceding three rounds.

13. The Commission reaffirms that it will in most cases use a simultaneous stopping rule for simultaneous auctions. The rule has important efficiency advantages in allowing bidders to pursue backup strategies and to take advantage of new information from earlier bids. Further, a simultaneous stopping rule will not prevent the implementation of regional strategies. The Commission believes bidding activity in early rounds will provide significant information about the value of licenses to competing bidders. If bidding takes unexpected turns, it is precisely the fact that bidding on all licenses remains open to the end that will give bidders the flexibility to adopt a new strategy if an original one proves less desirable than anticipated. Moreover, bidders have the option of withdrawing high bids during an auction, subject to the applicable penalties, if they find they have bid too high on one license in the expectation of getting a complementary license at a low price.

14. The Commission's experience in the nationwide narrowband auctions bears out this conclusion. Individual licenses often had no new bids for several rounds, followed by active bidding and steep increases in bids. Allowing bidding to close on licenses individually, while bidding remains active on others, creates a risk of closing on some licenses before the final value has been reached, decreasing the likelihood that the license will be awarded to the bidder that values it most and reducing the revenues generated. In addition, individual closing might encourage strategic bidding that would reduce the efficiency of the auction. Hence, the Commission declines to adopt Metrex's recommendation that the Commission adopt and immediately announce an individual stopping rule. However, the Commission retains the discretion to use a hybrid or individual stopping rule for BTA licenses if a simultaneous stopping rule proved too complex to administer for large numbers of licenses. The Commission will announce the specific stopping rule to be used for BTA licenses by Public Notice prior to each auction.

15. As for the option of declaring that the auction will end after some specified number of additional rounds, the Commission agrees with GTE that this procedure would likely result in less efficient allocation of licenses, and lower revenues, than allowing the auction to remain open as long as new bids are received. Other methods are available to hasten the end of an auction, including shortening the bidding rounds, raising the minimum bid increments, and proceeding to a later auction stage. The Commission retains the option of declaring the imminent end of the auction, however, as a fallback in case of extremely dilatory bidding. The Commission does not expect to use this option except in the unlikely case that other methods fail to bring about the close of an excessively long auction.

Duration of Bidding Rounds

16. In the *Fifth Report and Order*, the Commission decided that bidders would be provided a single business day to submit bids and that one round of bidding would be conducted each business day. However, the Commission retained discretion to vary, by Public Notice or announcement, the duration of bidding rounds or the interval at which bids are accepted, in order to move the auction toward closure more quickly.

17. In the *Fifth Report and Order*, the Commission discussed its discretion to vary the duration of bidding rounds or the interval at which bids are accepted as a tool for moving auctions toward closure more quickly. The Commission anticipated that holding one round of bidding per day might allow bidders more time than necessary to formulate their bids and might result in excessively long auctions. The Commission still believes that its planned one-day bidding rounds are more likely to be too long than too short, particularly since much of the work of estimating the values of licenses, developing business plans, and arranging financing can be done in advance of the auction.

18. The Commission retains the discretion to lengthen as well as shorten the duration of bidding rounds or the interval at which bids are accepted, and will lengthen the time allowed for bidding if it sees evidence during the auctions that bidders are prevented by the bidding schedule from developing rational, well-informed bids. Nevertheless, it is more likely that the Commission will shorten bidding rounds because doing so will expedite provision of PCS service to the public without reducing the efficiency of the

auction. The Commission believes it is extremely unlikely that it will hold more than two rounds per day, though it may start with one round per day and move to two rounds per day after the first week if it appears that this schedule will allow bidders enough time to formulate their bids.

19. The Commission agrees with Pacific Bell that prospective bidders may find it important to know the time parameters of bidding rounds as early as possible. However, the Commission doesn't have enough information at present to set an appropriate minimum duration for bidding rounds. The Commission will continue to consider this issue as the broadband PCS auctions approach in light of the experience gained in the regional narrowband auctions.

Timing for Auctioning Specific Spectrum Blocks

20. In the *Fifth Report and Order*, the Commission decided to auction the broadband PCS spectrum at three separate auctions. The 99 available PCS licenses MTA blocks A and B will be auctioned first, followed by the 986 PCS licenses in BTA blocks C and F (the entrepreneurs' blocks). In the last auction, the remaining 986 licenses in BTA blocks D and E will be put up for bid. The Commission reasoned that this grouping strikes a proper balance among the competing concerns of awarding licenses to the parties who value them most highly, keeping the auction process simple and manageable, minimizing administrative delay, and fostering designated entity participation.

21. With respect to arguments that we should auction BTA licenses (or at least entrepreneurs' block licenses) before MTA licenses to prevent larger firms from getting a head start over designated entities than the current auction sequence and might reduce the efficiency of the auctions. Because the large firms that are potential partners for designated entities probably would prefer to own outright any licenses they might obtain in an auction, it is less likely, rather than more likely, that these large firms would form partnership agreements with designated entities if auctions in the restricted blocks were held before the MTA auctions. In addition, the information about license values conveyed in the MTA auctions will reduce the risk of BTA financing and partnering and so will be valuable to bidders in the entrepreneurs' block auctions. In addition, it appears that a rational strategy for bidders in many cases might be to bid on the largest licenses first and only after the outcome of those auctions is known to attempt to acquire smaller, complementary licenses or, if unsuccessful in the auction for larger licenses, to attempt to aggregate smaller licenses as a backup strategy. In addition, if winners of MTA licenses were willing to bid more than other applicants for complementary BTA licenses, that willingness would almost certainly represent true efficiencies of joint operation and ought to be allowed to affect the assignment of licenses.

22. As for auctioning MTA and BTA licenses together in markets with Pioneer's Preference licenses, the Commission continues to believe that substituting two 10 MHz BTA licenses for a 30 MHz MTA license is not likely to be a widely used strategy, so that little loss of efficiency would result from auctioning MTA and BTA licenses separately. Further, it believes that bidders will have enough information to make informed bids in all MTA markets. The Commission sees no reason to believe that auctioning MTA and BTA licenses separately would have a greater effect on efficiency in markets where Pioneer's Preference licenses have been removed from the auction than in other markets, since the same total amount of spectrum is available for PCS in all markets, and there is nothing to prevent bidders from negotiating with winners of Pioneer's Preference licenses. Commenters apparently have no objection to the plan to separate MTA and BTA auctions in other markets. In addition, auctioning MTA and BTA licenses together in Pioneer's Preference markets would remove those BTAs from the BTA auctions and thus may impede efficient geographic aggregation of licenses. As Omnipoint points out, the plan would also make it more difficult for entrepreneurs' block winners in those markets to aggregate their licenses with other BTA licenses. The auctions might also become unnecessarily administratively complex and confusing to bidders if BTAs were auctioned with MTAs in a few but not all markets. Further, changing the grouping of licenses at this stage in the planning process might cause the first auctions to be delayed. Consequently the Commission is unconvinced that any efficiency advantages would accrue from this strategy, and will continue to auction MTAs separately from BTAs in all markets.

23. The Commission agrees, however, that auctioning the MTA blocks far ahead of other blocks would give a head start to the winners in the MTA blocks that would likely afford them some competitive advantage over winners in later auctions. Consequently, the Commission intends to hold the three broadband auctions as close together in time as possible given its administrative resources. The Commission declines to delay finalizing the award of A and B block licenses, however, because of an overriding interest in rapid introduction of PCS to the public.

Authority To Adopt Filing and Processing Rules

24. In the Notice of Proposed Rule Making (*Notice*) in this proceeding, the Commission stated:

> In order to avoid needless duplication, we propose that the following general filing and processing rule apply to all PCS: Sections 22.3–22.45, 22.917(f), and 22.918–22.945. For those PCS applicants who file on Form 574, we believe that Sections 90.113–90.159 of our rules, 47 CFR 90.113–90.159, could be used to process those applications with appropriate modifications.

25. The Commission disagrees with AIDE and will not issue a supplemental Notice on the PCS application processing rules. Indeed, it has addressed AIDE's argument that there was inadequate notice of these rules before in the *Fifth Report and Order* and on reconsideration of the *Second Report and Order* on auctions. The Commission's response, once again, is that the *Notice* sought comment on specific rule sections contained in Parts 22 and 90 of our Rules, and asked commenters to indicate what modifications should be made to those rules to adapt them for PCS services. In addition, the *Notice* specifically requested comment on the general procedural, processing and petition-to-deny procedures that should be used for auctionable services. The *Notice's* proposal to adopt processing rules based on Parts 22 and 90 of the Commission's Rules, with any appropriate modifications for PCS services, clearly indicated to commenters the terms of the proposed rules, as is required by the Administrative Procedures Act and the Commission's Rules (*see* 5 U.S.C. § 553 and 47 CFR 1.413(c)). Thus, the Commission believes its original description of the proposed rule was sufficiently specific to alert interested parties to the substance of our proposal and to provide an adequate opportunity for comment on those proposals. Several commenters did, in fact, address the proposed application and processing rules set forth in our *Notice*, a further indication that sufficient notice was provided. The Commission also believes that these issues were within the scope of this proceeding because as a means of assigning licenses, the competitive bidding process is integrally related to rules and procedures for processing of license applications.

26. The broadband PCS rules established in the *Fifth Report and Order*, and modified here today, adopt several of the procedures set forth in Parts 22 and 90 of the Commission's Rules and discussed in the *Notice*. The minor modifications to the proposed rules were needed to reflect specific concerns related to auctioning broadband PCS licenses and address comments raised by the public. The adopted rules are a logical outgrowth of the rules proposed in the *Notice*, applied in the context of the use of competitive bidding to assign broadband PCS licenses. Rules adopted as a logical outgrowth comply with all Administrative Procedure Act requirements.

Disclosure of Bidding Information

27. In the *Second Memorandum Opinion and Order* in this proceeding, the Commission announced that it would generally release the identities of bidders before each auction. The Commission concluded that disclosure was appropriate because of the advantages of providing more information to bidders and the difficulties involved in ensuring that bidder identities remain confidential. The Commission reserved the option, however, to withhold bidder identities on an auction-by-auction basis. Bidders will be informed by Public Notice prior to each auction whether the identities of bidders will be made public in that auction.

28. As noted in the Public Notice announcing the first broadband PCS auction, Report No. AUC–94–04 (released Sept. 19, 1994), the Commission has decided to apply the bidder disclosure policy adopted in the *Second Memorandum Opinion and Order* to the first broadband PCS auction. As indicated in the *Second Memorandum Opinion and Order*, the Commission will generally identify bidders before each auction. It reserves the authority, however, to conceal bidder identities if further experience demonstrates it is desirable to do so. The Commission will announce its decision of whether to release bidder identities in a Public Notice released before each auction.

Short and Long Form Applications

29. The Commission adopted a two-part application procedure in the *Fifth Report and Order* consistent of short- and long-form application obligations. The Commission will initiate the application process by Public Notice, announcing when it will accept short-form applications to participate in an auction for specific broadband PCS licenses. The notice, in part, will specify the licenses that will be available, identify the time and place of an auction in the event that mutually exclusive applications are filed, and announce a deadline by which short-form applications must be filed. After an auction, winning bidders will be required to file a long-form application. The long-form applications must be submitted by a date specified by Public Notice, generally within ten business days after the close of bidding. Upon acceptance for filing of the long-form application, the Commission will issue a Public Notice, which will open the filing window for petitions to deny.

30. The Commission will specify by Public Notice prior to each broadband auction the filing date for short-form applications and the accepted applications for each auction. Similarly, it plans to specify by Public Notice after each auction is conducted the long-form filing dates and accepted long- form applications. The Commission's experience with the nationwide narrowband PCS auctions to date shows that these procedures work well to facilitate efficient operation of the competitive bidding process. It reserves the right, however, to alter these procedures if there is a need to do so in the future.

Upfront Payments

31. In establishing its auction methodology for PCS, the Commission set forth several provisions to ensure that winning bidders will have the resources needed to obtain their licenses and construct their systems and to discourage insincere bidding. For example, short-form applicants must certify that they are financially qualified pursuant to Section 308(b) of the Communications Act, and must disclose certain information concerning the real party or parties in interest (e.g., major stockholders, partners, joint ventures). Additionally, the Commission requires accepted short-form applicants to make a substantial upfront payment, and has established significant bid withdrawal and default penalties.

32. With respect to the concerns raised by Hernandez, the Commission believes that the existing requirements provide an adequate measure of a party's ability to pay. As indicated above, short-form applicants must make a substantial upfront payment and subject themselves to significant bid withdrawal and default penalties in order to participate in the auctions. Thus far, the Commission's experience with the narrowband PCS nationwide license auction suggests that the requirements are sufficiently stringent to ensure that auction participants have the financial resources to purchase the spectrum for which they intent to bid. The Commission will address Hernandez's concern about the ability of designated entities to make their installment payments in a separate reconsideration order on designated entity issues.

33. The Commission has considered GTE's request that applicants earn interest on their upfront payments in the *Second Memorandum Opinion and Order* on auctions. The Commission rejects such a proposal for now because of the administrative difficulties that are posed by the need to track and transfer applicant funds, and because it lacks the legal authority to engage in such financial activity. The Commission has sought legislative authority in the 1994 House and Senate FCC authorization bills to establish interest-bearing accounts so that auction applicants may accrue interest on upfront payments. If such authority is granted, the Commission may choose to pay interest.

Collusion and Settlement Restrictions

34. In the *Fifth Report and Order* the Commission prohibited bidders from discussing the substance of their bids or bidding strategies with other bidders, unless such bidders are members of a bidding consortium or other joint bidding arrangement identified on the bidder's (short-form) application. The Commission further required bidders to identify on their Form 175 short-form applications all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements relating to the competitive bidding process. The Commission also determined that auction applicants would not be permitted to make any ownership changes or changes in the identification of parties to bidding consortia once a short-form application is filed. The Commission recently modified these rules on reconsideration of the general competitive bidding rules to permit bidders who have not applied for any of the same licenses to enter into bidding agreements during the course of an auction. It also decided to allow applicants to amend their Form 175 applications to make ownership changes after the filing deadline has passed, provided such changes do not result in a change of control of the applicant.

35. The Commission declines to liberalize its collusion and settlement restrictions in the manner requested by either McCaw or AIDE. The Commission continues to believe that a prohibition against agreements and alliances concerning bidding between applicants

bidding for the same licenses is a prudent deterrent to collusion that should have only a minimal and temporary effect on bidders' flexibility. As stated in the *Second Report and Order*, rules prohibiting collusion serve the objectives of the Budget Act by preventing applicants, especially the largest companies, from entering into agreements to use bidding strategies that divide the market to the disadvantage of other bidders. In addition the rules avoid the problem of entities filing applications solely for the purpose of demanding payment from other bidders in exchange for settlement or withdrawal. Overall, the Commission believes that auctions are likely to result in more efficient assignments than settlements because they reduce the transaction cost of putting a license in the hands of the applicant that values it most highly.

36. With regard to McCaw's proposal, the fact that one bidder has withdrawn its application before entering into a consortium with another bidder does not reduce the importance of the collusion rules, even if the Commission forbids bidders from communicating with other bidders competing for the same license until after a formal withdrawal has taken place. The Commission is concerned that if such consortium arrangements were permissible, particularly in an environment where bidder identities are known, undue pressure may be brought to bear on smaller bidders to withdraw in exchange for teaming up with other larger bidders, or sham applications would be filed to demand payment from other applicants. In general, The Commission is concerned that McCaw's proposal would create incentives for parties to collude and behave in an anti-competitive manner. While the Commission recognizes that allowing consortia to occur could enable many smaller applicants to pool their resources to win licenses, it believes the risks of allowing such arrangements between applicants for the same license (even when one applicant has withdrawn) outweigh the benefits at this time.

37. The Commission also rejects AIDE's contention that the Commission lacks the authority under the Communications Act to preclude settlements between mutually exclusive applicants for auctionable licenses. While the Commission has an established policy of favoring settlements in some contexts, it is entirely within our authority to restrict or prohibit settlements if we find such agreements would not be in the public interest. At this time, the Commission finds that post-filing settlements between applicants for the same license in the broadband PCS competitive bidding process would not serve the public interest for reasons stated above. The Commission believes that nothing in the language or legislative history of Section 309(j) contradicts this view. Consequently, the Commission is amending its rules to eliminate Section 24.829(b), which is inconsistent with the collusion rules contained in Section 1.2105 of the Rules.

38. In order to provide bidders sufficient time and greater flexibility to attract capital, however, the Commission makes several modifications to its collusion rules and policies adopted in the *Fifth Report and Order* and in its reconsideration of the generic auction rules. First, the Commission recognizes that an entity may hold non-controlling ownership interests in two or more bidders, and that those bidders may aggregate more PCS spectrum cumulatively than a single entity is entitled to hold. In such cases, the Commission will permit divestiture of non-controlling interests to bring the entities into compliance with the PCS spectrum aggregation limits provided such divestiture is completed within 90 days of grant of the license. Such post-auction divestiture will enable investors to finance more than one bidder without risking default penalties if both bidders, for example, win licenses which in combination exceed our aggregation limits.

39. Procedurally, if entities with a common non-controlling ownership interest aggregate more PCS spectrum among them than a single entity is entitled to hold, the Commission will require that the long-form applications for broadband PCS licensing be accompanied by a signed statement from the applicant that sufficient properties will be divested within 90 days of the license grant to bring the broadband PCS licenses held within the permitted aggregation limits. If the applicant is otherwise qualified, the applications will be granted subject to a condition that the licensee come into compliance with the PCS spectrum aggregation limits within 90 days of grant. Within 90 days of license grant, the licensee must certify to the Commission that the applicant and all parties to the application have come into compliance with our PCS spectrum aggregation limits. If the PCS licensee fails to submit this certification within 90 days, the Commission will invoke the condition on all broadband PCS licenses won by the applicant in the auction, cancelling them immediately and imposing the default penalty. In addition, the Commission may investigate whether the certifications on divestiture are evidence of misrepresentations that call into question the party's qualification to hold any PCS licenses. If a buyer has not been secured in the required period of time, the PCS licensee may divest the prohibited interest to an interim independent trustee, as long as the applicant has no interest in or control of the trustee. The trustee may dispose of the interest as it sees fit. In no event, however, may the trustee retain the property for longer than six months.

40. Also, as indicated *supra*, the Commission's auction collusion rules have been revised to permit bidders who have not filed Form 175 applications for any of the same licenses to engage in discussions and enter into bidding consortia or joint bidding arrangements during the course of an auction. The Commission stated in the *Third Memorandum Opinion and Order* on narrowband PCS auctions that where bidders have not applied for any of the same licenses there is little risk of anti-competitive conduct with respect to a single license. The Commission reaches the same conclusion with respect to broadband PCS. The relaxed collusion rules, which the Commission will apply in the broadband PCS context, will permit bidders to have greater flexibility to compete in the auction by combining their resources, provided that no change of control of any applicant takes place. The Commission wishes to clarify that it intended these provisions to apply to applicants that have not applied for licenses in any of the same geographic license areas, *i.e.*, the same MTAs for A and B block licenses or the same BTAs for other broadband PCS licenses.

41. As noted above, the Commission also modified our generic auction rules to permit applicants to amend their FCC Form 175 applications to reflect ownership changes that do not result in a change in control of the applicant. The Commission now modifies Section 24.822 (b) to clarify the applicability of this provision to broadband PCS. Such changes shall not be regarded as major amendments to an application, provided they do not result in a transfer of control of the applicant. Amendments to FCC Form 175 must be filed with the Commission within two business days of any such change. The Commission's experience in the nationwide narrowband PCS auction demonstrated that it is necessary to allow applicants to amend their FCC Form 175 applications to make ownership changes after the filing deadline has passed, provided such changes do not result in a change of control or discussions that

violate the Commission's anti-collusion rules. Permitting such amendments will provide bidders with flexibility to seek additional capital after applications have been filed, while ensuring that the real party in interest does not change. Again, the Commission clarifies that this change applies only to applicants that have not applied for licenses in any of the same geographic license areas. Of course, formation of consortia, bidding agreements and new ownership arrangements remains subject to Commission review under the public interest standard, and we would expect that entities entering into such agreements would comply with all relevant Commission policies and other applicable laws, *e.g.*, the antitrust laws.

42. The Commission will also permit ownership changes in which consortium investors drop out of bidding consortia, even if control of the consortium changes as a result. The Commission does not wish to restrict some members of consortia from continuing to bid even though other members of the consortia wish to drop out of the bidding. The Commission emphasizes that members that are removed from a consortium may not subsequently become involved with another bidder in bidding on any license for which the consortium had applied. Bidders must submit a revised Form 175 to reflect the change in ownership.

43. The Commission also wishes to clarify an aspect of its rules dealing with the information that applicants must provide to the Commission with their Form 175 and Form 401 applications. Section 24.813(a)(1) of the Commission's Rules, 47 CFR 24.813(a)(1), states among other things that applicants must provide "a list of any business five percent or more of whose stock, warrants, options or debt securities are owned by the applicant or an officer, director, *stockholder* or key management personnel of the applicant." (Emphasis added.) Read literally, this provision would require applicants to ascertain the holdings in other concerns of every one of their stockholders, regardless of how small that stockholder's stake in the applicant may be. This was not the Commission's intent, and it takes this opportunity to amend this rule to clarify that only holdings in other concerns that are held by *attributable* shareholders in the applicant need be disclosed.

44. Finally, the Commission notes that in the *Second Memorandum Opinion and Order*, it clarified the applicability of the collusion rules to cases where an applicant has a common ownership interest with another applicant. The Commission stated that, unless the second applicant is expressly identified as an entity with whom the first applicant has an agreement concerning bidding, the Commission will prohibit these parties from communicating concerning their bidding strategies. As the Commission stated in the *Second Memorandum Opinion and Order*, this prohibition will hold even if the other bidder is identified on the applicant's short-form application as having a common ownership interest with the applicant. Communication among bidders concerning matters unrelated to license auctions, however, will be permitted.

45. Accordingly, to ensure that the bidding process is competitive and to encourage formation of a competitive post-auction market structure, the Commission is retaining the collusion rules in the broadband PCS context with the modifications set forth in the *Second Memorandum Opinion and Order.*

Antenna Height Restrictions

46. The Commission established antenna height restrictions in the *Fifth Report and Order* which provide, in part, that no antenna structure, including radiating elements, tower, supports and all appurtenances, may be higher than 61 meters above ground level unless prior Commission approval is obtained.

47. The Commission believes that issues relating to antenna height are best resolved in another proceeding, to afford a greater opportunity for industry comment. The Commission's primary concern when it adopted this rule section was to promote the safe location and identification of PCS antennas, particularly in areas around airports. There may be less administratively burdensome methods, however, of obtaining the same result. Moreover, Section 24.816, may be duplicative since Part 17 of the Commission's rules already provides for similar antenna height and use safeguards. The Commission therefore rescinds the antenna height restrictions adopted in the *Fifth Report and Order*, but will examine the issue in a future proceeding on revisions to Part 24 of our rules.

Restrictions on Cellular Participation

48. In the *Fifth Report and Order*, the Commission reserved specific spectrum blocks in broadband PCS for bidding exclusively by entities that, together with their affiliates and certain investors, have gross revenues of less than $125 million in each of the last two years and total assets of less than $500 million. The Commission determined that designation of these "entrepreneurs' blocks" was needed to ensure that small entities have a meaningful opportunity to participate in the acquisition and provision of broadband PCS services.

49. The Commission rejects GTE's proposal to eliminate certain cellular restrictions, as its request is outside the scope of this proceeding. Rather, those restrictions were appropriately addressed in our broadband PCS service rules proceeding, GN Docket No. 90–314. As Pacific Bell points out in its Opposition, the Commission considered arguments identical or similar to the ones raised by GTE in that proceeding and concluded that our restrictions strike an appropriate balance between fostering broad participation in PCS and ensuring that cellular operators do not exert undue market power. Accordingly, the Commission will retain its present restrictions on cellular participation in the provision of PCS. The Commission will address the merits of GTE's claim that they will be unfairly disadvantaged by the creation of entrepreneurs' blocks in our reconsideration order on designated entity concerns.

Final Regulatory Flexibility Analysis

50. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. § 604, the Commission's final analysis for the *Fourth Memorandum Opinion and Order* is as follows:

Need for, the Purpose of, this Action. As a result of new statutory authority, the Commission may utilize competitive bidding mechanisms in the granting of certain initial licenses. The Commission published an Initial Regulatory Flexibility Analysis, *see generally* 5 U.S.C. § 603, within the *Notice of Proposed Rule Making* in this proceeding and published Final Regulatory Flexibility Analyses within the *Second Report and Order* (at ¶¶ 299–302) and the *Fifth Report and Order* (at ¶¶ 219–222). As noted in these previous final analyses, this proceeding will establish a system of competitive bidding for choosing among certain applications for initial licenses, and will carry out statutory mandates that certain designated entities, including small entities, be afforded an opportunity to participate in the competitive bidding process and in the provision of spectrum-based services.

51. *Summary of the Issues Raised by the Public Comments.* No commenters responded specifically to the issues raised by the *Fifth Report and Order.* The Commission has made some modifications to the proposed requirements as appropriate.

52. *Significant Alternatives Considered and Rejected.* All significant alternatives have been addressed in the *Fifth Report and Order* and in this *Fourth Memorandum Opinion and Order.*

Ordering Clauses

53. Accordingly, *it is ordered* that the petitions for reconsideration *are granted* to the extent described above, *deferred* with respect to designated entity issues and *denied* in all other respects.

54. *It is further ordered* that Part 24 of the Commission's Rules *is amended.*

55. *It is further ordered* that the rule amendments made herein *will become effective* upon publication in the **Federal Register.**[1] This action is taken pursuant to Section 4(i), 303(r) and 309(j) of the Communication Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r) and 309(j).

List of Subjects in 47 CFR Part 24

Personal Communications Services.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 24 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 24—PERSONAL COMMUNICATIONS SERVICES

1. The authority citation for Part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309, and 332, unless otherwise noted.

2. Section 24.703 is amended by revising paragraph (f) and adding paragraph (h) to read as follows:

§ 24.703 Competitive bidding mechanisms.

* * * * *

(f) *Activity Rules.* The Commission will establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple-round auction, bidders will be entitled to request and be granted waivers of such rule. The Commission will specify the number of waivers permitted in an auction, the frequency with which they may be exercised, and the method of operation of waivers by Public Notice prior to each auction.

* * * * *

(h) *Bidder Identification During Auctions.* The Commission may choose, on an auction-by-auction basis, to release the identity of the bidders associated with bidder identification numbers. The Commission will announce by Public Notice before each auction whether bidder identities will be revealed.

3. Section 24.813(a)(1) is revised to read as follows:

§ 24.813 General application requirements.

(a) * * *

(1) A list of any business five percent or more of whose stock, warrants, options or debt securities are owned by the applicant or an officer, director, attributable stockholder or key management personnel of the applicant. This list must include a description of each such business's principal business and a description of each such business's relationship to the applicant.

* * * * *

§ 24.816 [Removed and Reserved]

4. Section 24.816 is removed and reserved.

5. Section 24.822(b) is revised to read as follows:

§ 24.822 Amendment of application to participate in auction for licenses in the broadband Personal Communications Services filed on FCC Form 175.

* * * * *

(b) In broadband PCS, applicants will be permitted to amend their Form 175 applications to make minor amendments to correct minor errors or defects such as typographical errors. Applicants will also be permitted to amend FCC Form 175 to make changes to the information required by § 24.813(a) (such as ownership changes or changes in the identification of parties to bidding consortia), provided such changes do not result in a change in control of the applicant and do not involve another applicant (or parties in interest to an applicant) who has applied for licenses in any of the same geographic license areas as the applicant. Amendments which change control of the applicant will be considered major amendments. An FCC Form 175 which is amended by a major amendment will be considered to be newly filed and cannot be resubmitted after applicable filing deadlines. *See also* § 1.2105 of this chapter.

§ 24.829 [Amended]

6. Section 24.829 is amended by removing paragraph (b), and redesignating paragraph (c) as paragraph (b).

7. Section 24.833 is added to read as follows:

§ 24.833 Post-auction divestitures.

Any parties sharing a common non-controlling ownership interest who aggregate more PCS spectrum among them than a single entity is entitled to hold (*See* §§ 20.6(e), 24.710, 24.204, 24.229(c) of this chapter) will be permitted to divest sufficient properties within 90 days of the license grant to come into compliance with the spectrum aggregation limits as follows:

(a) The broadband PCS applicant shall submit a signed statement with its long-form application stating that sufficient properties will be divested within 90 days of the license grant. If the licensee is otherwise qualified, the Commission will grant the applications subject to a condition that the licensee come into compliance with the PCS spectrum aggregation limits within 90 days of grant.

(b) Within 90 days of license grant, the licensee must certify that the applicant and all parties to the application have come into compliance with the PCS spectrum aggregation limits. If the licensee fails to submit the certification within 90 days, the Commission will immediately cancel all broadband PCS licenses won by the applicant, impose the default penalty and, based on the facts presented, take any other action it may deem appropriate. Divestiture may be to an interim trustee if a buyer has not been secured in the required time frame, as long as the applicant has no interest in or control of the trustee, and the trustee may dispose of the property as it sees fit. In no event may the trustee retain the property for longer than six months from grant of license.

[FR Doc. 94–26437 Filed 10–21–94; 8:45 am]

BILLING CODE 6712–01–M

[1] Pursuant to 5 U.S.C. § 553(d)(3), we conclude that "good cause" exists to have the rule changes take effect October 24, 1994, because a delay would not provide applicants with sufficient time to finalize their bidding strategies and business plans for the upcoming broadband PCS auctions. Immediate implementation of the rule changes set forth herein also provides applicants with the required certainty to proceed with their bidding and business strategies, alleviating concerns that last-minute modifications to our Rules would impede the success of their auction plan. See 5 U.S.C. § 553(d)(1).

Proposed Rules

Federal Register
Vol. 59, No. 204
Monday, October 24, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 21

RIN 3150–AF01

Procurement of Commercial Grade Items by Nuclear Power Plant Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations in 10 CFR Part 21 to clarify and add flexibility to the process of procuring commercial grade items for safety-related service by nuclear power plant licensees. The proposed rule expands the scope of commercial grade items to encompass all items procured for use in safety-related service that are not designed and/or manufactured as basic components. This proposed rule is necessary to ensure that the procurement of commercial grade parts and their subsequent dedication are performed in a manner that avoids unnecessary delay and expense while maintaining an adequate level of plant safety. The proposed rule responds to a petition for rulemaking from the Nuclear Management and Resources Council (NUMARC), which is now incorporated into the Nuclear Energy Institute (NEI).

DATES: Submit comments by January 9, 1995. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attn: Docketing and Service Branch.

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Examine comments received and the regulatory analysis at: The NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Obtain single copies of the regulatory analysis from: M.L. Au, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6181.

FOR FURTHER INFORMATION CONTACT: M.L. Au, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6181.

SUPPLEMENTARY INFORMATION:

Background

The Commission issued 10 CFR Part 21 on June 6, 1977 (42 FR 28893), to implement Section 206 of the Energy Reorganization Act of 1974. One of the purposes of 10 CFR Part 21 is to provide for the evaluation of deviations, and reporting of defects and failures to comply in safety-related parts and services for use in nuclear power plants. 10 CFR Part 21 is implemented in conjunction with 10 CFR Part 50, Appendix B, which contains the quality assurance criteria to be applied to design, fabrication, construction, and testing of safety-related structures, systems, and components in nuclear power plants.

On October 14, 1993 (58 FR 53159), the Commission published a notice of receipt of a petition for rulemaking (PRM–21–2) from the Nuclear Management and Resources Council (NUMARC), which is now incorporated into the Nuclear Energy Institute (NEI). The NUMARC petition was docketed by the NRC on June 22, 1993.

The petitioner requested that the Commission amend 10 CFR Part 21 to clarify and add flexibility to the process of procuring commercial grade items for safety-related service by nuclear power plant licensees. Specifically, the petitioner requested that 10 CFR Part 21 be amended to:

(1) Replace the existing definition of commercial grade item with a more inclusive definition;

(2) Include a flexible generic process for dedication of commercial grade items for safety-related use; and

(3) Clarify that the entity performing the dedication of a commercial grade item is responsible for discovering and evaluating deviations, and reporting defects and failures to comply as required by 10 CFR Part 21.

Basis for Petition

The petitioner contends that many of the original equipment manufacturers and suppliers no longer maintain programs that meet the requirements in 10 CFR Part 50, Appendix B, due to the high cost of maintaining and implementing these programs relative to the diminishing demand for plant parts. Thus, an increasing number of safety-related parts are being purchased from manufacturers and suppliers who no longer maintain quality assurance programs pursuant to 10 CFR Part 50, Appendix B. Because, this is a relatively small market, the petitioner states that many vendors are unwilling to develop and maintain evaluation and notification procedures that meet 10 CFR Part 21 reporting requirements. With fewer vendors agreeing to comply with these requirements, the petitioner claims that it is becoming difficult for nuclear power plant licensees to procure an increasing number of items and services for safety-related applications.

10 CFR Part 21 currently provides an exemption for a subclass of components called "commercial grade." These components are defined as items that are (1) not subject to nuclear-unique design or specification requirements; (2) used in applications outside the nuclear industry; and (3) ordered on the basis of specifications set forth in the manufacturer's published product description (for example, a catalog).

The petitioner believes that the discussions in 10 CFR Part 21 that relate to commercial grade items, the dedication of these items for use in safety-related applications, and the reporting requirements associated with these items are unworkable and ineffective and consequently may adversely affect safety. Furthermore, the petitioner believes that the effect of these provisions has been to discourage vendors from maintaining programs that meet NRC requirements and to even refuse to provide parts to licensees. To alleviate these problems, the petitioner proposes the following three changes to 10 CFR Part 21:

First, the petitioner suggests that the NRC broaden the definition of "commercial grade item" in 10 CFR 21.3 to read as follows: "*Commercial grade item* means any item that has not been

dedicated for use as a basic component." This definition essentially would include any item obtained on the open market. The petitioner believes that allowing commercially available items to qualify as commercial grade items would result in more reasonable prices and delivery times with no adverse impacts on safe plant operations.

Second, the petitioner suggests a more flexible generic definition of "dedication" in 10 CFR 21.3: "*Dedication* is the evaluation process undertaken to provide reasonable assurance that a commercial grade item to be used as a basic component will perform its intended function." According to the petitioner, dedication methods could include testing and/or inspection, surveying the commercial grade supplier to determine that the appropriate quality control is in place, observing the manufacturing process, and analyzing the historical record of the item for acceptable performance. The petitioner also proposes that the dedicating entity maintain documentation of the dedication process for the purpose of an audit or inspection.

The petitioner believes that the benefits of establishing this process are that the utility or third party performing the dedication: (1) Understands the safety significance and function of the proposed component; (2) is able to identify the characteristics necessary to perform its intended function better than the manufacturer; and (3) would be responsible for the quality of the commercial grade item. This would require the party performing the dedication to determine the suitability of the component by analyzing the effect of its performance in a safety-related application.

Third, the petitioner suggests that the responsibility for reporting defects and failures to comply for commercial grade items should reside with the entity responsible for performing the dedication process. The petitioner suggests that the following language be added to 10 CFR 21.21(b): "The entity that performs the dedication is responsible for identifying, evaluating and reporting the deviations and failures to comply associated with substantial safety hazards of a commercial grade item." The petitioner believes that it is appropriate to clarify that the responsibility for reporting defects and failures to comply for commercial grade items falls on the entity performing the dedication process because the suppliers and sub-tier suppliers do not necessarily know whether a commercial grade item is destined for a safety-related application.

Public Comments and Responses

The NRC received 23 letters in response to the publication of the notice of receipt of the petition. All but one letter supported the petition and called for a revision of the NRC's regulations consistent with the proposed amendments set forth in the petition.

Of the 22 letters that supported the petition, 17 supported the proposed amendments without any qualification. Fifteen of these letters were from nuclear utilities and two from nuclear vendors.

The five other supportive letters recommended minor changes to the specific language of the proposed amendments. With respect to the definition of dedication, one commenter recommended replacing "intended function" with "intended safety-related function." The intent here is to make it clear that a dedicating entity must focus on safety-related functions in determining whether an item will be suitable as a basic component. During the comment period, NUMARC indicated its support for this change. The NRC also concurs that this is an appropriate clarification. In addition, three commenters offered a clarifying second sentence that would establish the point in time that an item is considered dedicated. The sentence would indicate that, when dedication of a commercial grade item has been completed, the item may be used as a basic component. One of these commenters also recommended that the term "evaluation" be eliminated from the first sentence because the definition of "evaluation" is currently provided in 10 CFR 21.3 and has a different intent than its use here. The NRC supports inclusion of the additional sentence. The NRC also agrees with the commenter regarding removal of the term "evaluation." This term will continue to be used only in conjunction with a substantial safety hazard determination.

Two commenters recommended changes to the notification requirement to prevent confusion regarding the application of 10 CFR Part 21 only to basic components. The NRC agrees with the substance of the comment to provide for the notification of defects and failures to comply only subsequent to successful dedication of the commercial grade item as a basic component.

One commenter expressed concern that a supplier's responsibility for procurement documentation is not clear. The commenter recommended that procurement documents specify that an item is commercial grade, that dedication would be performed by the purchaser, and that provisions of 10 CFR Part 21 would not apply to the supplier. The NRC believes 10 CFR 21.31 clearly states that only procurement documents for the purchase of basic components and commercial grade items which have been designated for use as basic components through the dedication process must adhere to the provisions of 10 CFR Part 21.

The one letter in opposition to the petition was submitted by a private individual. This commenter believes that commercial grade dedication requires each utility to perform a comprehensive evaluation and to establish the appropriate engineering and quality requirements utilizing the provisions of 10 CFR Part 50, Appendix B. Further, this commenter also states that 10 CFR Part 21 should not be used as an instructional guide for the engineering analysis and procurement of items. The NRC believes that proposed revisions to 10 CFR Part 21 will reflect the current procurement situation faced by utilities while enhancing the requirement for ensuring proper qualification of commercial grade items used in safety-related applications.

Basis for Commission's Decision

The NRC has carefully reviewed the arguments presented by the petitioner and the public comments that were submitted on the petition. The NRC is proposing to grant the petition in part with regard to 10 CFR Part 50 licensees by initiating this rulemaking. The proposed rule incorporates the petition in part, and modifies the petitioner's suggested language as indicated in the following discussion.

Commercial Grade Item (CGI)

The NRC agrees in principle with the petitioner that the definition of a commercial grade item as it relates to 10 CFR Part 50 needs to be expanded to allow for a broader range of parts and services. In October 1978, when the NRC issued an immediately effective rule defining commercial grade item, it was for the purpose of exempting these items from the reporting requirements of 10 CFR Part 21 until their dedication as basic components. The NRC argued that this amendment was needed for safety reasons. Problems such as the inability to obtain needed supplies or to use the most qualified suppliers, and excessive delays in procurements were all cited as detriments to safety. The NRC believes that similar concerns are again present to some extent because the availability

of basic components has declined and the current definition of commercial grade item is now unnecessarily restrictive.

The petitioner proposes that a commercial grade item be defined as any item that has not been dedicated for use as a basic component. Thus, any commercial grade item could be subject to a dedication process to assure its qualification as a basic component. The Commission maintains that not all safety-related items can be properly dedicated after the manufacturing process is completed. For certain items, quality assurance is an integral part of the manufacturing process and cannot be attested to after the fact. The NRC believes that if the complexity of the design and/or manufacturing process of an item is such that dedication cannot reasonably assure the absence of a defect which could affect one or more critical characteristics of the item, the item must be designed and manufactured as a basic component. Items in this category include complex assemblies which generally have nuclear unique requirements and applications and where the design and/or manufacturing process requires many in-process inspections and verifications to assure that defects are identified and corrected. Specific examples include, but are not limited to, fuel and control rod assemblies and pressure vessels. Thus, the NRC believes that commercial grade items cannot encompass the full spectrum of items envisioned by the petitioner.

10 CFR Part 21 currently defines a commercial grade item as an item that is: (1) Not subject to nuclear-unique design or specification requirements; (2) used in applications outside the nuclear industry; and (3) ordered on the basis of specifications set forth in the manufacturer's published product description. This set of conditions results in very limited use of the commercial grade item designation. The NRC is proposing that, for 10 CFR Part 50 licensees, an item would qualify as a commercial grade item if it is not designed and/or manufactured as a basic component. This would effectively preclude inclusion of items whose quality assurance is an integral part of the manufacturing process and whose acceptance is based primarily on the vendor's certification of compliance with specific design requirements. For facilities and activities licensed pursuant to 10 CFR Parts 30, 40, 60, 61, 71, or 72 the existing definition is retained, although proposed revisions to 10 CFR Part 21 for non-reactor licensees are under development in a separate rulemaking.

The NRC's proposed definition of "Commercial Grade Item," when applied to facilities and activities licensed pursuant to 10 CFR Part 50, means a structure, system, component, or part thereof that is not designed and/or manufactured as a basic component. A commercial grade item is not a basic component or part of a basic component, until the dedication process has been completed.

Basic Component

Because the NRC is now proposing a definition of commercial grade item for 10 CFR Part 50 licensees in terms of the standards involved during its design and manufacture, it is also appropriate to define basic component in a similar manner. Therefore, the NRC proposes to add the following sentence to its definition of "basic component":

"This definition includes items designed and/or manufactured under a program complying with 10 CFR Part 50, Appendix B, and commercial grade items which have been successfully dedicated to be used as basic components pursuant to the dedication process described in this part."

Dedication Process

Dedication is an inspection and acceptance process by which a commercial grade item is designated for use as a basic component. By expanding the scope of commercial grade items for 10 CFR Part 50 licensees, it is anticipated that an increasing number of safety-related items will be procured as commercial grade items as opposed to basic components. This should result in increased reliance on dedication by licensees or third-party dedicating entities in lieu of the quality assurance programs of manufacturers and suppliers. Although such a transfer may be beneficial in some instances, the NRC needs greater assurance that 10 CFR Part 50 licensees or dedicating entities are performing meaningful and substantive dedication processes. In all cases, the licensee using the dedicated item is responsible for ensuring that the dedication process includes the identification and verification of critical characteristics and is to be conducted in accordance with the applicable provisions of 10 CFR Part 50, Appendix B. The critical characteristics are those design, material, and performance characteristics that, when verified, will provide reasonable assurance that the item will perform its intended safety-related function. As a result, the NRC believes that the rule needs to specify the key elements of such a dedication process. Specifically, the NRC maintains that this process must be performed in accordance with the applicable provisions of 10 CFR Part 50, Appendix B, and encompass inspections, tests, and/or analyses performed by the licensee or a third-party dedicating entity after delivery, supplemented as necessary, by a combination of commercial grade surveys, product inspections or witness/holdpoints, and analysis of historical records for acceptable performance. The four acceptance methods described in EPRI NP–5652, "Guidelines for the Utilization of Commercial-Grade Items in Nuclear Safety-Related Applications (NCIG–07)," as conditionally endorsed by NRC Generic Letter 91–05, "Licensee Commercial-Grade Procurement and Dedication Programs," may be utilized as guidance for the dedication of commercial grade items for safety-related applications.

The petitioner also requested that the entity performing the dedication process be responsible for 10 CFR Part 21 evaluation and reporting requirements. The NRC concurs with this recommendation as it will add needed flexibility in the procurement of replacement parts. Further, the NRC believes that the dedicating entity would be the most qualified party to assume the responsibility for 10 CFR Part 21 requirements because in many cases the commercial grade supplier does not know the end application or safety function of the item. The dedicating entity will generate the necessary quality records during the dedication process, and should have a full understanding of the items's safety function to enable that entity to perform the deviation evaluation and defect reporting functions required under 10 CFR Part 21.

The dedicating entity, i.e., either (1) the manufacturer, (2) third-party entity, distributing a commercial grade item which it has successfully dedicated, or (3) licensee which has successfully dedicated a commercial grade item for its own use, would be subject to NRC enforcement action for failure to identify and evaluate deviations, failure to report defects and failures to comply, or failure to maintain auditable records. In addition, if the dedicating entity identifies a defect which previously was not identified and which is attributable to a flaw in the dedication process, any known recipients of similar dedicated items using this process must be notified or included in the dedicating entity's notification to the Commission as currently required under the provisions of Part 50, Appendix B, Criterion XV.

Critical Characteristics

The NRC definition of the dedication process includes the term "critical characteristics." Given its import, the NRC believes it should be defined so as to assure proper and complete identification of those characteristics which need to be examined. Therefore, a definition of the term "critical characteristics" has been added. As noted in the proposed definition, the characteristics to be examined are selected design, material and performance characteristics.

Dedicating Entity

The NRC definition of the dedication process also includes the term "dedicating entity." Because the dedication process begins with the dedicating entity, the NRC believes that it is important to clearly identify the party and its responsibilities for the requirements associated with this process. Therefore, the NRC is proposing a definition of "dedicating entity."

Notification, Inspection, and Reporting Responsibilities

Section 21.21(c) (1) and (2) have been added to clarify that the dedicating entity of a commercial grade item is responsible for identifying and evaluating deviations, and reporting defects and failures to comply as required by 10 CFR Part 21, as well as maintaining auditable records of the dedication process.

Sections 21.21, 21.41, and 21.51 contain the NRC's requirements for notification, inspections, records, and maintenance and inspection of records, respectively. The NRC proposes, for clarification purposes, that these sections explicitly identify dedicating entities as being subject to the regulations in these sections. The phrase, "(including dedicating entities)" has been added to §§ 21.6(a), 21.21(a), 21.31, 21.41, and 21.51 (a) and (b). In addition, minor editorial changes have been made in § 21.51(b).

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed regulation is the type of action described in the categorical exclusion in 10 CFR 51.22(c)(3)(iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed regulation.

Paperwork Reduction Act Statement

This proposed rule does not contain a new information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under approval number 3150–0035.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from M.L. Au, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6181.

The Commission requests public comment on the draft analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule primarily impacts nuclear power plant licensees because they are expected to assume a greater role in the dedication process. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. In addition, the rule, if promulgated, would potentially allow small entities to more effectively compete in providing components and services to nuclear power plants, and to the extent this occurs, the rule is advantageous to them.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR Part 50.109, does not apply to this proposed rule. These amendments do not involve any provision that would impose additional requirements requiring a backfit analysis as defined in 10 CFR Part 50.109(a)(1).

List of Subjects in 10 CFR Part 21

Nuclear power plants and reactors, Penalties, Radiation protection, reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 21.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

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

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2201, 2282); secs. 201, as amended, 206, 88 Stat. 1242, as amended, 1246 (42 U.S.C. 5841, 5846).

Section 21.2 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

2. Section 21.3 is amended by removing the paragraph designations from each of the defined terms and arranging the definitions in alphabetical order; revising the terms *Basic component, Commercial grade item* and *Dedication;* and adding the terms *Critical characteristics* and *Dedicating entity* to read as follows:

§ 21.3 Definitions.

Basic component. (1) When applied to facilities and activities licensed pursuant to 10 CFR Part 50 of this chapter, this definition includes items designed and/or manufactured under a quality assurance program complying with 10 CFR Part 50, Appendix B, and commercial grade items which have been successfully dedicated to be used as basic components pursuant to the dedication process described in this part. This means a plant structure, system, component or part thereof necessary to assure:

(i) The integrity of the reactor coolant pressure boundary,

(ii) The capability to shut down the reactor and maintain it in a safe shutdown condition, or

(iii) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 100.11 of this chapter.

(2) When applied to other facilities and when applied to other activities licensed pursuant to 10 CFR Parts 30, 40, 60, 61, 70, 71, or 72 of this chapter, means a component, structure, system, or part thereof that is directly procured by the licensee of a facility or activity subject to the regulations in this part and in which a defect (see § 21.3) or failure to comply with any applicable regulation in this chapter, order, or license issued by the Commission could create a substantial safety hazard (see § 21.3).

(3) In all cases, *basic component* includes safety related design, analysis, inspection, testing, fabrication, replacement parts, or consulting services that are associated with the component hardware whether these services are performed by the component supplier or others.

Commercial grade item. (1) When applied to facilities and activities licensed pursuant to 10 CFR Part 50, means a structure, system, component, or part thereof that is not designed and manufactured as a basic component. A commercial grade item is not a basic component, or part of a basic component, until the dedication process has been completed.

(2) When applied to facilities and activities licensed pursuant to 10 CFR Parts 30, 40, 60, 61, 70, 71, or 72, means an item that is

(i) Not subject to design or specification requirements that are unique to those facilities or activities,

(ii) Used in applications other than those facilities or activities, and

(iii) To be ordered from the manufacturer/supplier on the basis of specifications set forth in the manufacturer's published product description (for example a catalog).

* * * * *

Critical characteristics. When applied to facilities and activities licensed pursuant to 10 CFR Part 50, are those important design, material, and performance characteristics of a commercial grade item that, once verified, will provide reasonable assurance that the item will perform its intended safety function.

Dedication. (1) When applied to facilities and activities licensed pursuant to 10 CFR Part 50, is an inspection and acceptance process undertaken to provide reasonable assurance that a commercial grade item to be used as a basic component will perform its intended safety-related function and, in this respect, is equivalent to an item designed and manufactured under a 10 CFR Part 50, Appendix B quality assurance program. This assurance is achieved by a combination of commercial grade surveys, product inspections or witness/holdpoints at the manufacturer's facility supplemented as required by additional inspections or tests, or analyses of acceptable historical performance by the purchaser or a third-party dedicating entity after delivery. In all cases, the licensee using the dedicated item is responsible for ensuring that the dedication process includes the identification and verification of critical characteristics and is conducted in accordance with the applicable provisions of 10 CFR Part 50, Appendix B. The process is considered complete when the item is designated for use as a basic component. Due to the complexity of their design and/or manufacturing process, certain items must be designed and manufactured as basic components since the dedication process cannot reasonably assure the successful performance of the safety function (i.e., one or more critical characteristic of the item cannot be verified). Items in this category include complex assemblies which generally have nuclear unique applications and where the design and/or manufacturing process requires many in-process inspections and verifications to assure that defects or failures to comply are identified and corrected. Specific examples include, but are not limited to, fuel and control rod assemblies and pressure vessels.

(2) When applied to facilities and activities licensed pursuant to 10 CFR Parts 30, 40, 60, 61, 70, 71, or 72, occurs after receipt when that item is designated for use as a basic component.

Dedicating entity. When applied to facilities and activities licensed pursuant to 10 CFR Part 50, means the organization that performs the dedication process to qualify a commercial grade item as a basic component. Dedication may be performed by either the manufacturer of the item, a third party dedicating entity, or the licensee itself. The dedicating entity, pursuant to § 21.21 (c) of this part, is responsible for identifying and evaluating deviations, reporting defects and failures to comply for the dedicated item, and maintaining auditable records for the dedication process. NRC enforcement action can be taken for failure to identify and evaluate deviations, failure to report defects and failures to comply, or failure to maintain auditable records.

* * * * *

3. In Section 21.6, paragraph (a) is revised to read as follows:

§ 21.6 Posting requirements.

(a) Each individual, partnership, corporation or other entity (including dedicating entities) subject to the regulations in this part, shall post current copies of the following documents in a conspicuous position on any premises, within the United States where the activities subject to this part are conducted:

(1) The regulations in this part,

(2) Section 206 of the Energy Reorganization Act of 1974, and

(3) Procedures adopted pursuant to the regulations in this part.

* * * * *

4. In Section 21.21, the introductory text of paragraph (a) is revised, paragraphs (c) and (d) are redesignated as paragraphs (d) and (e) respectively and new paragraph (c) is added to read as follows:

§ 21.21 Notification of failure to comply or existence of a defect and its evaluation.

(a) Each individual, corporation, partnership or other entity (including dedicating entities) subject to the regulations in this part shall adopt appropriate procedures to—

* * * * *

(c) A dedicating entity is responsible for (1) identifying and evaluating deviations, and reporting defects and failures to comply associated with substantial safety hazards for dedicated items; and (2) maintaining auditable records for the dedication process.

* * * * *

5. Section 21.31 is revised to read as follows:

§ 21.31 Procurement documents.

Each individual, corporation, partnership or other entity (including dedicating entities) subject to the regulations in this part shall assure that each procurement document for a facility, or a basic component issued on or after January 6, 1978 specifies, when applicable, that the provisions of 10 CFR Part 21 apply.

6. Section 21.41 is revised to read as follows:

§ 21.41 Inspections.

Each individual, corporation, partnership or other entity (including dedicating entities) subject to the regulations in this part shall permit the Commission to inspect records, premises, activities, and basic components as necessary to accomplish the purposes of this part.

7. In Section 21.51 the introductory text of paragraph (a) and paragraph (b) are revised to read as follows:

§ 21.51 Maintenance and inspection of records.

(a) Each individual, corporation, partnership, or other entity (including dedicating entities) subject to the regulations in this part shall prepare and maintain records necessary to accomplish the purposes of this part, specifically—

* * * * *

(b) Each individual, corporation, partnership, or other entity (including dedicating entities) subject to the regulations in this part shall permit the

Commission the opportunity to inspect records pertaining to basic components that relate to the identification and evaluation of deviations, and the reporting of defects and failures to comply, including any advice given to purchasers or licensees on the placement, erection, installation, operation, maintenance, modification, or inspection of a basic component.

Dated at Rockville, Maryland, this 7th day of October 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94–25707 Filed 10–21–94; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 221 and 292

[Docket No. 49827; Notice No. 94–18]

RIN 2137–AC48

Exemption From Property Tariff-Filing Requirements

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department proposes to adopt a new Part 292 that would exempt U.S. and foreign air carriers from the statutory and regulatory duty to file international property ("cargo") tariffs with DOT, subject to the reimposition of the duty in specific cases when consistent with the public interest. Commencing with the effective date of the final rule, currently effective cargo tariffs would be canceled as a matter of law, pending tariff applications would be dismissed, and new tariffs would not be accepted for filing. This action is taken on the Departments initiative.

DATES: Comments should be received no later than December 23, 1994.

Proposed Effective Date: Since the proposal would eliminate a requirement and create no additional burden, the exemption provisions would be effective immediately upon issuance of a final rule.

ADDRESSES: Comments should be sent to the Docket Clerk, Docket No. 49827, U.S. Department of Transportation, 400 7th Street, SW., Room 4107, Washington DC 20590–0002, and should plainly refer to this docket. To facilitate consideration of the comments, we ask commenters to file twelve copies of each comment. We encourage commenters who wish to do so also to submit comments to the Department through the Internet; our Internet address is dot–dockets@postmaster.dot.gov. Note, however, that at this time the Department considers only the paper copies filed with the Docket Clerk to be the official comments. Comments will be available for inspection at this address from 9:00 a.m. to 5:00 p.m., Monday through Friday. To receive an acknowledgment of receipt of comments, include a stamped, self-addressed postcard which the Docket Clerk will time and date-stamp, and return.

FOR FURTHER INFORMATION CONTACT: Mr. Keith A. Shangraw or Mr. John H. Kiser, Office of the Secretary, Office of International Aviation, X–43, Department of Transportation, at the address above. Telephone: (202) 366–2435.

SUPPLEMENTARY INFORMATION:

Background

Section 41504 of Title 49 of the United States Code, formerly section 403(a) of the Federal Aviation Act of 1958, as amended, requires every U.S. and foreign air carrier to file with the Department, and to keep open for public inspection, tariffs showing all prices for foreign air transportation between points served by that carrier, as well as all rules relating to that transportation to the extent required by the Department. This includes prices for carriage of cargo, known as cargo "rates." Over the years, international cargo tariffs have provided U.S. regulatory authorities with a means to exercise close regulatory supervision over cargo pricing, either for public policy or consumer protection reasons, or in the context of bilateral aviation relations. Increasingly, however, we have come to see that the cargo tariff is a device that is no longer necessary for us to meet our public interest objectives, and that this tariff regime is costly and burdensome to everyone connected with it.

Cargo rates fall into two broad categories: (1) General commodity rates (GCRs), and (2) special rates. Special rates include specific commodity rates (SCRs), contract rates, container rates and exception rates, all of which are based on the characteristics of particular types of traffic, as well as expedited, door-to-door rates for documents and small packages, which are based on a premium service.

In the cargo area, only international scheduled service tariffs continue to be filed with the Department. Domestic scheduled service cargo tariffs were eliminated in 1978 by Regulation ER–1080, 43 FR 53635, November 16, 1978. Similarly, both domestic and international cargo charter tariffs were eliminated in 1979 by ER–1125, 44 FR 33056, June 8, 1979. Domestic and international tariffs of air freight forwarders (part of a class of carriers called "indirect cargo air carriers" or "foreign indirect air carriers") were eliminated by ER–1094, 44 FR 6634, February 1, 1979, and by ER–1159, 44 FR 69635, December 4, 1979, respectively.

The Department's regulatory policy regarding international cargo rate tariffs appears at 14 CFR 399.41.[1] Under this policy, independently-set carrier prices in most international cargo rate categories are effectively deregulated.[2] Barring extreme circumstances, the only tariff rates over which the Department continues to exercise regulatory supervision are GCRs up to and including the 500 kilogram weight break, and certain exception rates.[3] Even this oversight is not applicable to markets governed by a liberal entry and pricing regime.

Since its adoption in 1983, section 399.41 has proved adequate. Virtually no complaints have been received against filed cargo tariffs, whether against rates or against rules stating conditions of service.[4] In many markets, carriers have not used the upward flexibility available to them to raise rates to the SFRL ceilings. The international cargo market has continued to evolve to the point where today the Department tentatively believes that it no longer needs to rely

[1] This policy was originally established by the Department's predecessor agency in this area, the Civil Aeronautics Board (CAB), in 1983. The Department assumed jurisdiction over international cargo tariffs and cargo rate regulation upon CAB sunset, January 1, 1985.

[2] Agreements containing international cargo rates, which carriers coordinate through the tariff conferences and procedures of the International Air Transport Association (IATA), must be filed with and approved by the Department before tariffs can be filed or other steps taken for their implementation. These agreements are subject to economic justification requirements and Department analysis which are independent of its tariff policy and procedures. The proposed rule will not affect the review of IATA agreements in any way.

[3] Section 399.41 sets zones of pricing flexibility for GCRs up to 500 kilograms, and establishes a Standard Foreign Rate Level (SFRL) for each market as the basis for these zones of flexibility. The SFRL is calculated periodically to reflect changes in the cost experiences of the carriers. The SFRL zones also govern exception rates, priced at levels higher than comparable GCRs, for shipments of live animals, perishable goods and other kinds of specialized cargo. However, the other special rate categories are not subject to any zone constraints.

[4] The basic conditions of service for the international air transportation of cargo are also stated in the carriers' air waybills, and most areas of potential shipper concern are governed directly by provisions of the Warsaw Convention.

on the routine government supervision of cargo tariffs to protect the public.

Many shippers who now tender shipments directly to carriers are large volume forwarders or "consolidators." These shippers have a sufficient position in the market to shop around and negotiate the best service/price options. Many small volume or irregular shippers are now generally served either by consolidators or, increasingly, by small package specialists offering premium services. The filing of consolidator tariffs was discontinued in 1979 with no apparent adverse effect on the public. Nor has the Department received any complaints about small package rates, which have not been regulated in keeping with its liberal pricing policy on all optional premium services.

The U.S. Government has also actively pursued the liberalization of international cargo prices with other countries. It has concluded aviation agreements which effectively deregulate cargo prices in a number of major markets, including the United Kingdom, Belgium, Germany, and the Netherlands. We have had no bilateral pricing disputes involving cargo rates in recent years, and the Department expects that deregulation of international cargo prices will continue to be a routine objective in future bilateral or multilateral discussions. Indeed, a few foreign countries are considering, or have already decided, not to require carriers to file international cargo rate tariffs with their aviation authorities.

Carriers are thus filing, and the Department is processing, thousands of pages of cargo tariff material each year with little, if any, meaningful regulatory consequence.[5] Requiring the continued routine carrier filing of cargo tariffs would burden the industry unnecessarily, and continuing the physical processing and storage of such tariffs would needlessly burden the Department in an era of scarce and diminishing governmental resources without consequent benefits. In these circumstances, the Department tentatively has determined to end the routine filing and review of detailed price and other tariff information relating to the carriage of cargo by air.[6]

The proposed rule would exempt U.S. and foreign air carriers from their statutory and regulatory duty to file tariffs with DOT containing rates and any other rules or conditions of service for the carriage of cargo to/from U.S. points, and it would not permit them to do so. Existing tariffs would be cancelled, and pending tariff applications would be dismissed. The exemption would encompass all material currently filed in international cargo tariffs with DOT.

However, existing regulations of the Department, set forth in 14 CFR Part 249 and in section 221.177 of 14 CFR Part 221, would continue to require each carrier, individually and through its agents, to maintain pertinent information on its cargo prices and rules, and to make that information available to the public upon request.

This rule will not materially lessen the Department's ability to intervene in cargo pricing and related matters should that be necessary. First, Departmental review of IATA cargo agreements will continue. Second, the Department has always had statutory authority to take action directly against unfiled cargo prices and rules under a variety of circumstances.[7] And third, the Department will reserve the option under the proposed rule of revoking the exemption in whole or in part, thus reinstating the tariff-filing obligation, with regard to a particular carrier or carriers where consistent with the public interest. This would make available to the Department, in a timely manner, the full panoply of tariff-filing requirements and review procedures that are currently applicable, although the Department would not necessarily implement them all in any particular case.[8]

To facilitate any cargo rate evaluation that may be required, the Department proposes to leave in place its current regulatory policies, embodied in the section 399.41 policy statement, and to continue to recalculate the SFRL cost index. This would continue to establish benchmark levels for GCRs and exception rates that would be, *prima facie*, reasonable, and that could be used to resolve any complaints against rates in categories regulated by the SFRL.

In addition to rates, existing cargo tariffs also contain general material governing such subjects as notice of terms of contract of carriage, liability for loss, claims procedures, carriage of dangerous goods, acceptability of cargo, and other general matters of concern to shippers and other consumers of international cargo air transportation. The absence of cargo tariffs should have no impact in this regard. Most such material merely restates provisions contained in the standard air waybill or other contract of carriage, and it is not necessary for the protection of shippers to repeat the information in filed tariffs. To the extent that shippers have questions about the application or interpretation of certain contract provisions, it is likely that they consult the carrier directly rather than its tariffs. To the extent that tariffs might set forth certain provisions in greater detail, the Department already has an alternative framework in place to permit its incorporation into the contract of carriage. Under section 221.177, carriers may incorporate by reference material not actually printed on the air waybill, provided that they make the full text of all such incorporated terms readily available for public inspection, in either electronic or printed medium, at each airport or other sales office of the carrier. This procedure preempts any state laws on the same subjects, as did 14 CFR Part 253 in the case of domestic passenger air transportation.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Department has determined that this proposed rule is not subject to review under Executive Order 12866. Moreover, the rule is not significant under the Department's Regulatory Policies and Procedures (44 CFR 11034; Feb. 26, 1979). A regulatory evaluation in this Docket shows that the benefits of the proposed rule exceed the costs to the industry and the Federal Government significantly, since it eliminates a current regulatory burden, without imposing other requirements.

Executive Order 12612

This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism"), and the Department has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing international ("foreign") air cargo tariffs are large operators with revenues

[5] In 1993 alone, The Department received and processed 8,591 pages of cargo tariffs.

[6] International air transport agreements routinely permit, but do not obligate, each party to require tariffs to be filed with its aeronautical authorities.

[7] See, *e.g.*, 49 U.S.C. sections 41712, 41507 and 41310.

[8] For example, the Department could require filings, but grant a waiver from all or some of the format procedures set forth in Part 221 of the Regulations; or it might require the filing of only a particular rate or group of rates of a particular carrier.

in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air-taxi service are not required to file such tariffs.

Paperwork Reduction Act

With respect to the Paperwork Reduction Act, this proposed rule change eliminates information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act. This proposal will reduce paperwork burden, as described in detail in the Regulatory Evaluation in this docket.

If these proposed regulations are implemented, about 7,000 to 10,000 tariff pages encompassing cargo rates, charges and rules, and about 500 Cargo Special Tariff Permission Applications (STPA's), would be eliminated each year, saving the air carriers a filing fee of $2 per cargo page and $12 per cargo STPA (which generally consists of about three double-sided pages for each STPA form).

Such filing fees, now paid to DOT, total about $20,000 or less annually. Air carriers and their cargo filing agents also would avoid the burden of preparing and transmitting tariff filings, estimated to be about 5.34 hours for each of the 7,500 cargo tariff pages and STPA forms, or about 40,050 burden hours, which at an estimated industry salary rate of about $10.40 an hour would indicate a savings of approximately $416,520.

In addition, other associated costs, such as those incurred by carriers to formulate and disseminate the cargo rate and rules pages to their customers, may be reduced. For example, the $48 charge per international cargo tariff page to cover 1994 publication/distribution costs, announced by the Airline Tariff Publishing Company (ATPCO) in Cargo Tariff Bulletin No. 19, dated November 18, 1993, might be favorably affected. The subscription rate for each cargo tariff ranges from $15 to $95, based upon speed of delivery (bulk/priority/or air). Currently the charge for the delivery of the complete international cargo tariff in the U.S., Canada or Mexico is $200, or $500 for delivery elsewhere. Whether these subscription rates would be reduced would be decided by the tariff agent and the air carriers.

For further information contact: The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, (202) 366–4735 or Transportation Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503.

Any comments regarding the burden estimate or any aspect of these information requirements, including suggestions for reducing the burden, may be sent to: Director, Office of Airline Statistics, DAI–1, U.S. Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, S.W., Room 4125, Washington, DC 20590–0001 as well as the above contact at OMB.

Regulation Identifier Number

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

List of Subjects

14 CFR Part 221

Air carrier, Cargo rates, Tariffs, Reporting and recordkeeping requirements.

14 CFR Part 292

International cargo transportation.

This rule is being issued under authority delegated in 49 CFR 1.56(j)(2)(ii). For the reasons set forth in the preamble, it is proposed that 14 CFR Part 221 be amended and a new Part 292 be added, to read as follows:

PART 221—TARIFFS

1. The authority citation for Part 221 continues to read as follows:

Authority: 49 U.S.C. 40101, 40109, 40113, 46101, 46102, Chapter 411, Chapter 413, Chapter 415, and Subchapter I of Chapter 417, unless otherwise noted.

Subpart A—[Amended]

2. Section 221.3 is amended by adding paragraph (d)(9) to read as follows:

§ 221.3 Carrier's duty.

* * * * *

(d) * * *

(9) Part 292, International Cargo Transportation, except as provided in Part 292.

* * * * *

3. A new Part 292 is added to read as follows:

PART 292—INTERNATIONAL CARGO TRANSPORTATION

Subpart A—General

Sec.
292.1 Applicability.
292.2 Definitions.

Subpart B—Exemption From Filing of Tariffs

292.10 Exemption.
292.11 Revocation of exemption.

Subpart C—Effect of Exemption

292.20 Rule of construction.
292.21 Termination of effectiveness.

Authority: 49 U.S.C. 40101, 40105, 40109, 40113, 40114, 41504, 41701, 41707, 41708, 41709, 41712, 46101; 14 CFR 1.56(j)(2)(ii).

Subpart A—General

§ 292.1 Applicability.

This Part applies to direct air carriers providing scheduled transportation of cargo in foreign air transportation.

§ 292.2 Definitions.

For purposes of this part:

Direct air carrier means an air carrier or foreign air carrier that directly engages in foreign air transportation under a certificate, regulation, order or permit issued by the Department of Transportation or its predecessor.

Cargo means property other than baggage accompanied or checked by passengers, or mail.

Cargo tariff means a tariff containing rates, charges, or provisions governing the application of such rates or charges, or the conditions of service, applicable to the scheduled transportation of cargo in foreign air transportation.

Subpart B—Exemption From Filing of Tariffs

§ 292.10 Exemption.

Direct air carriers are exempted from the duty to file cargo tariffs with the Department of Transportation, as required or provided by 49 U.S.C. 41504 and 14 CFR Part 221.

§ 292.11 Revocation of exemption.

(a) The Department, upon complaint or upon its own initiative, may take action to revoke in whole or in part the exemption granted by this Part with respect to a carrier or carriers, when such action is in the public interest.

(b) The decisionmaker will be the Assistant Secretary for Aviation and International Affairs.

(c) Revocations under this section will have the effect of reinstating all applicable tariff requirements, and procedures specified in the Department's regulations for the tariff material to be filed, unless otherwise specified by Department order.

Subpart C—Effect of Exemption

§ 292.20 Rule of construction.

Carriers holding an effective exemption from the duty to file cargo tariffs under this Part shall not, unless otherwise directed by order of the Department, be subject to tariff posting, notification or subscription requirements set forth in 49 U.S.C. 41504 of the Act or 14 CFR Part 221, except the requirements set forth in section 221.177 and the requirements set forth in 14 CFR Part 249. References to "tariffs" in section 221.177 shall be construed to mean terms, conditions or other provisions which are part of the contract of carriage as permitted by that section.

§ 292.21 Effect of exemption.

As of [insert publication date], cargo tariffs on file with the Department will cease to be effective as tariffs under 49 U.S.C. 41504 and 41510 and will be canceled by operation of law. Pending applications for filing and/or effectiveness will be dismissed by operation of law. No new filings or applications will be permitted except as provided under section 292.11, above.

Issued in Washington, D.C. on October 18, 1994.

Patrick V. Murphy,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 94–26211 Filed 10–21–94; 8:45 am]

BILLING CODE 4910–62–P

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14 CFR Part 302

Docket No. 49830 Notice No. 94–19

RIN 2105–AC18

Rules of Practice for Proceedings Concerning Airport Fees

AGENCY: Department of Transportation; Office of the Secretary.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to establish specific procedural rules under which the Department of Transportation will handle complaints by air carriers and foreign air carriers for a determination of the reasonableness of a fee increase or newly established fee imposed upon the carrier by the owner or operator of an airport. This notice also proposes rules that would apply to requests by the owner or operator of an airport for such a determination. The rulemaking is intended to respond to the mandate in the recently enacted Federal Aviation Administration Authorization Act of 1994 requiring the Department to issue regulations establishing procedures for acting upon such complaints by air carriers and requests by airport owners and operators.

DATES: Comments on the proposed rule are due November 4, 1994. Because the statute requires the Department to issue a final rule by November 21, 1994, it will be difficult or impossible to consider late-filed comments or to entertain requests for an extension of the comment period.

ADDRESSES: Comments should be sent to the Docket Clerk, Docket No. 49830, Department of Transportation, 400 7th Street, SW.,Room 4107, Washington, DC 20590. To facilitated consideration of the comments, we ask commenters to file twelve copies of each comment. We also encourage commenters who wish to do so to submit comments to the Department through the Internet; our Internet address is dot—dockets@postmaster.dot.gov.[1] Note, however, that at this time the Department considers only the paper copies filed with the Docket Clerk to be the official comments. Comments will be available for inspection at this address from 9:00 a.m. to 5:00 p.m.. Monday through Friday. Commenters who wish the Department to acknowledge the receipt of their comments should include a stamped, self-addressed postcard with their comments. The Docket Clerk will date-stamp the postcard and mail it back to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert Klothe, Office of Regulation and Enforcement, Office of the General Counsel, United States Department of Transportation, 400 Seventh Street, SW., Washington, DC 20591, telephone (202) 366–9307.

SUPPLEMENTARY INFORMATION:

Procedural Background

On June 9, 1994, the Office of the Secretary of Transportation (OST) and the Federal Aviation Administration issued two related notices on the subject of Federal policy on airport rates and charges. A notice of proposed policy entitled "Proposed Policy Regarding Airport Rates and Charges" (Proposed Policy) listed and explained the proposed Federal policy on the rates and charges that an airport proprietor can charge to aeronautical users of the airport. (59 FR 29874); a supplemental notice concerning the proposed policy was issued on October 12, 1994 (59 FR 51836). The FAA also issued a notice of proposed rulemaking entitled "Rules of Practice for Federally Assisted Airports" setting forth procedures for the filing, investigation, and adjudication of complaints against airports for alleged violation of Federal requirements under the Airport and Airway Improvement Act of 1982, as amended, and the Anti-Head Tax Act provisions of the Federal Aviation Act (59 FR 29880); Subpart J of the proposed rule provided special procedures for the expedited review of complaints by airlines involving the fees charged by an airport proprietor.

In brief, the special procedures in the FAA proposal would have provided an expedited formal investigation that included an evidentiary investigative hearing presided over by a designated FAA employee. The presiding officer would have issued a report of investigation to the FAA's Assistant Administrator for Airports, generally within 90 days of the complaint. Within 120 days of the complaint, the Assistant Administrator would have been required to issue an initial determination of whether the airport fee at issue violated Federal requirements that fees be fair and reasonable and not unjustly discriminatory. An initial determination would have been subject to final decision by the Administrator as a result of direct written appeal or, in certain circumstances, of appeal from the initial decision of an FAA hearing officer in an adjudicatory hearing requested by the respondent.

The Federal Aviation Authorization Act of 1994

The FAA Authorization Act of 1994 was signed into law on August 23, 1994. Section 113 of the FAA Authorization Act included specific provisions for the resolution of airport-air carrier disputes concerning airport fees. Section 113 in its entirety reads as follows:

SEC. 113. RESOLUTION OF AIRPORT-AIR CARRIER DISPUTES CONCERNING AIRPORT FEES.

(a) IN GENERAL.—Subchapter I of chapter 471 of subtitle VII is amended—

(1) by redesignating section 47129 (and any references thereto) as section 47131; and

(2) by inserting after section 47128 the following new section:

S 47129. Resolution of airport-air carrier disputes concerning airport fees

(a) AUTHORITY TO REQUEST SECRETARY'S DETERMINATION.—

(1) IN GENERAL.—The Secretary of Transportation shall issue a determination as to whether a fee imposed upon one or more air carriers (as defined in section 40102 of this subtitle) by the owner or operator of an airport is reasonable if—

(A) a written request for such determination is filed with the Secretary by such owner or operator; or

[1] Our x.400 e-mail address is G=DOT/S=dockets/QUI=qmail/O=hq/p=gov+dot/a=attmail/c=us.

(B) a written complaint requesting such determination is filed with the Secretary by an affected air carrier within 60 days after such carrier receives written notice of the establishment or increase of such fee.

(2) CALCULATION OF FEE.—A fee subject to a determination of reasonableness under this section may be calculated pursuant to either a compensatory or residual fee methodology or any combination thereof.

(3) SECRETARY NOT TO SET FEE.—In determining whether a fee is reasonable under this section, the Secretary may only determine whether the fee is reasonable or unreasonable and shall not set the level of the fee.

(b) PROCEDURAL REGULATIONS.—Not later than 90 days after the date of the enactment of this section, the Secretary shall publish in the **Federal Register** final regulations, policy statements, or guidelines establishing—

(1) the procedures for acting upon any written request or complaint filed under subsection (a)(1); and

(2) the standards or guidelines that shall be used by the Secretary in determining under this section whether an airport fee is reasonable.

(c) DECISIONS BY SECRETARY.—The final regulations, policy statements, or guidelines required in subsection (b) shall provide the following:

(1) Not more than 120 days after an air carrier files with the Secretary a written complaint relating to an airport fee, the Secretary shall issue a final order determining whether such fee is reasonable.

(2) Within 30 days after such complaint is filed with the Secretary, the Secretary shall dismiss the complaint if no significant dispute exists or shall assign the matter to an administrative law judge; and thereafter the matter shall be handled in accordance with part 302 of title 14, Code of Federal Regulations, or as modified by the Secretary to ensure an orderly disposition of the matter within the 120-day period and any specifically applicable provisions of this section.

(3) The administrative law judge shall issue a recommended decision within 60 days after the complaint is assigned or within such shorter period as the Secretary may specify.

(4) If the Secretary, upon the expiration of 120 days after the filing of the complaint, has not issued a final order, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

(5) Any party to the dispute may seek review of a final order of the Secretary under this subsection in the Circuit Court of Appeals for the District of Columbia Circuit or the court of appeals in the circuit where the airport which gives rise to the written complaint is located.

(6) Any findings of fact in a final order of the Secretary under this subsection, if supported by substantial evidence, shall be conclusive if challenged in a court pursuant to this subsection. No objection to such a final order shall be considered by the court unless objection was urged before an administrative law judge or the Secretary at a proceeding under this subsection or, if not so urged, unless there were reasonable grounds for failure to do so.

(d) PAYMENT UNDER PROTEST; GUARANTEE OF AIR CARRIER ACCESS.—

(1) PAYMENT UNDER PROTEST.—

(A) IN GENERAL.—Any fee increase or newly established fee which is the subject of a complaint that is not dismissed by the Secretary shall be paid by the complainant air carrier to the airport under protest.

(B) REFERRAL OR CREDIT.—Any amounts paid under this subsection by a complainant air carrier to the airport under protest shall be subject to refund or credit to the air carrier in accordance with directions in the final order of the Secretary within 30 days of such order.

(C) ASSURANCE OF TIMELY REPAYMENT.—In order to assure the timely repayment, with interest, of amounts in dispute determined not to be reasonable by the Secretary, the airport shall obtain a letter of credit, or surety bond, or other suitable credit facility, equal to the amount in dispute that is due during the 120-day period established by this section, plus interest, unless the airport and the complainant air carrier agree otherwise.

(D) DEADLINE.—The letter of credit, or surety bond, or other suitable credit facility shall be provided to the Secretary within 20 days of the filing of the complaint and shall remain in effect for 30 days after the earlier of 120 days or the issuance of a timely final order by the Secretary determining whether such fee is reasonable.

(2) GUARANTEE OF AIR CARRIER ACCESS.—Contingent upon an air carrier's compliance with the requirements of paragraph (1) and pending the issuance of a final order by the Secretary determining the reasonableness of a fee that is the subject of a complaint filed under subsection (a)(1)(B), an owner or operator of an airport may not deny an air carrier currently providing air service at the airport reasonable access to airport facilities or service, or otherwise interfere with an air carrier's prices, routes, or services, as a means of enforcing the fee.

(e) APPLICABILITY.—This section does not apply to—

(1) a fee imposed pursuant to a written agreement with air carriers using the facilities of an airport;

(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to the date of the enactment of this section; or

(3) any other existing fee not in dispute as of such date of enactment.

(f) EFFECT ON EXISTING AGREEMENTS.—Nothing in this section shall adversely affect—

(1) the rights of any party under any existing written agreement between an air carrier and the owner or operator of an airport; or

(2) the ability of an airport to meet its obligations under a financing agreement, or covenant, that is in force as of the date of the enactment of this section.

(g) DEFINITION.—In this section, the term "fee" means any rate, rental charge, landing fee, or other service charge for the use of airport facilities.

(b) CONFORMING AMENDMENT.—The analysis to such chapter is amended—

(1) by striking "47129" and inserting "47131"; and

(2) by inserting after the item relating to section 47128 the following:

47129. Resolution of airport-air carrier disputes concerning airport fees.

Because of the substantial differences between the procedures contemplated by the FAA Authorization Act and those proposed by the FAA, the FAA withdrew its NPRM on September 16, 1994, insofar as it applied to the resolution of the reasonableness of airport fees charged to air carriers (59 FR 47568). However, the remaining procedures proposed in the FAA NPRM, which would apply to the various other kinds of complaints filed against airports relating to Federal requirements, are not affected by the FAA Authorization Act. In order to permit additional time for commenters to consider the proposal as revised, OST and the FAA extended the comment period to December 1, 1994. In the same notice, the FAA noted that OST and the FAA were considering new regulations to implement the new law, and intended to publish a proposed rule for public comment as soon as practicable. We are today publishing that new proposed rule.

The statutory mandates to issue these procedural regulations and to issue any final orders in cases brought under the new law are directed toward the Secretary of Transportation. For that reason, the Office of the Secretary is issuing this notice. Because of the short time available to draft the proposed rule, however, the Secretary has not yet determined whether to delegate this function to another official of the Department, including an Assistant Secretary or the FAA Administrator. That determination will be made by the time this rulemaking is completed. Regardless of the deciding official, the final order in a proceeding brought under this Subpart will constitute a final order of the Secretary.

Summary of Regulatory Approach

Section 113 of the FAA Authorization Act prescribes a clear basic procedure for the hearing of an air carrier complaint and issuance of a final agency determination as to whether an airport fee is fair and reasonable. When applied to a complaint by a single carrier, the procedure does not present any apparent conflicts or difficulties. However, the fees charged air carriers at airports generally apply to a number of carriers, and the Department believes multiple complaints with respect to a particular airport fee would be more likely than a single complaint. The procedures adopted, therefore, must

provide for the orderly disposition of all the complaints concerning a particular fee increase.

Certain objectives of the required procedure are clear and need to be considered in the development of implementing regulations for Section 113. First, the procedure adopted must produce a final determination about the reasonableness of the fee within 120 days after a complaint is filed. Second, the section guarantees a hearing before an administrative law judge of every air carrier complaint that the Secretary finds to be a significant dispute. Because the procedure requires a hearing in accordance with 14 CFR Part 302 before an administrative law judge, the provisions of the Administrative Procedure Act apply to the hearing, indicating a Congressional intent that the hearing and decisionmaking involve the use of oral evidentiary procedures, to the extent consistent with the expedited time frame. Section 113 specifically provides that the Secretary may modify existing Part 302 procedures "to ensure an orderly disposition of the matter" within the 120-day period. Third, through a surety bond or similar security instrument that the airport operator must obtain, Section 113 is intended to assure that funds are available to refund or credit disputed fees that are paid by an air carrier and subsequently found to be unreasonable.

With these objectives in mind, the Department has considered three basic approaches in developing this proposal to implement the statutory mandate. These are: (1) Consider the filing of each complaint as a separate, unrelated, event; (2) Consolidate and consider all complaints after the end of the statutorily-imposed 60-day limit on filing; and (3) Consolidate all other complaints as soon as the first carrier files a complaint. Each of these approaches has both advantages and disadvantages.

Of the three approaches, number (1) is perhaps the simplest to describe and understand. Under this approach, the Department would decide each complaint separately, as it arises. When there are multiple complaints with respect to the fees at a particular airport, each complaint would be evaluated to determine whether it described a significant dispute, and, if so, it would be assigned for hearing before an administrative law judge.

If numerous carriers file individual complaints, however, it is apparent that this procedure would rapidly become infeasible. Individual handling of separate complaints would result in the assignment of complaints about the same airport fee to different administrative law judges; separate and possibly inconsistent decisions by different judges would unfairly burden the airport proprietor and the complainants; and, with each complaint being set for a separate hearing, the Department's resources could be quickly overwhelmed, frustrating the statute's purpose of achieving a final determination by the Secretary within 120 days.

Moreover, some complainants might find themselves seriously disadvantaged. An example is a case in which the first complaint is filed immediately after notice of the fee, and the second complaint is filed 40 days later. As required by the Authorization Act in new section 49 U.S.C. 47129(c)(2), the Secretary would issue an order on the first complaint, defining issues and assigning the case for hearing, within 30 days, i.e., before the second complaint is filed. The second complaint may raise new issues not addressed by the first, but there would be insufficient time for amendment of the order with the 120-day period already running on the first. In addition, while the Authorization Act requires an airport owner or operator to obtain a surety bond within 20 days after a complaint is filed, it makes no provision for requiring extension of that bond beyond 120 days. As a result, the bond is likely to expire before the Secretary issues a determination on the later-filing carrier's complaint. (While in theory it might be possible for an airport owner or operator to obtain a separate bond for each complaint, it does not appear that the statute contemplates such a requirement. Instead, it speaks of a bond to cover "the amount in dispute that is due during the 120-day period" following the initial complaint.)

The first complaint would also likely proceed to final determination well before the second. Since the Secretary is compelled to issue a determination of the reasonableness of the airport fee within 120 days, the second complainant might be bound by the decision in the first case. In this connection, it should be noted that the FAA Authorization Act repeatedly refers to "a determination" by the Secretary as to "whether such fee is reasonable." That is, the statutory language focuses on a single determination about reasonableness. Arguably, therefore, if the Secretary finds in the first case that the fee "is reasonable," that finding could bind all other complaints.

Approach (2) addresses many of the above concerns. Under this approach, the Department would require all complaints to be filed on the 60th day after an airport has given carriers written notice of a new or increased fee, that is, at the end of the period specified by the FAA Authorization Act. At that point, the Department would establish a single proceeding, consisting of all complaints that have been filed by the carriers.

Since all complaints would be filed at the same time, they could readily be considered in a consolidated proceeding; any that present significant disputes would be assigned for hearing before a single administrative law judge. Although there might be several parties and more than one issue to be decided, this approach would still be far more efficient for both the parties and the Department. The surety bond would cover the entire period of the proceeding, and would thus be available to ensure repayment of an unreasonable fee paid by any complaining carrier. There would be no concern that a late-filing carrier would be disadvantaged in comparison to a carrier that files early, because all complaints would be filed simultaneously at the end of the 60-day period. (Alternatively, the Department could accept an earlier-filed complaint, but hold it in abeyance until the 60-day period had elapsed.) The Department would then proceed to issue a final determination within 120 days after the end of the complaint-filing period.

Although this would provide a simpler and more manageable approach to resolving carrier complaints, we have tentatively rejected it as potentially not in keeping with the intent of the FAA Authorization Act. As noted above, one clear statutory purpose was to provide that complaints would be heard and decided within 120 days after they are filed. But by specifying that all complaints are to be filed at the end of the 60-day period, a carrier that is ready to file at an earlier point would not receive a determination within 120 days of that earlier date. In our view, this may not be in accord with the language of the statute.

Approach (3), which is embodied in this Notice of Proposed Rulemaking, also addresses many of the difficulties presented by Approach (1). As discussed below, we recognize that this approach too presents some difficulties, and it may not fully satisfy everyone. However, given the statutory mandate, we believe it represents the best solution to the problems described above.

As in Approach (1), the Department would begin to act on a complaint as soon as it is filed, which may be any time within the 60-day statutory filing limit. As provided by the statute, the Secretary would issue a final

determination on the reasonableness of the challenged fee within 120 days after the first such complaint is filed. However, in order to ensure that all other carriers have an opportunity to present their own arguments during the proceeding, the complaining carrier would be required to serve a copy of the complaint on all other carriers serving the airport, as well as on the airport owner or operator. Special service procedures, described later, would be required. Once the first complaint (which may be a joint complaint by multiple carriers) is filed and served, any other carrier would then have seven calendar days to file its own complaint with respect to the same airport fee or fees. Participation in the proceeding following the initiating complaint would thus be through an answer to the complaint or the filing of a separate complaint and participation in the hearing before the administrative law judge.

The advantages of this approach are essentially the same as those of Approach (2). It permits a consolidated hearing in which to evaluate the fee, and a simultaneous decision on all complaints. It gives effect to the statutory intent to require airports to provide surety for the repayment of improperly collected fees. And it avoids an unmanageable strain on the Department's resources, thus making possible the orderly disposition of the issues contemplated by the statute. In addition, it accomplishes these goals without compromising the additional goal of resolving disputes within 120 days. All complaints, including those filed after the initiating complaint, could be decided within 120 days of the filing of the initial complaint.

The main disadvantage of Approach (3), of course, is that some carriers might be forced to file their complaints earlier than they would otherwise choose. We are particularly interested in having commenters address whether or not this would be a burdensome restriction on complainants. Our concern is that an early filing by even one complainant could deprive other carriers of the opportunity to use more time to prepare and coordinate well-supported complaints. (On the other hand, we are aware that fee disputes between airports and airlines can often be anticipated, and therefore it might be that carriers can be expected to coordinate with each other before any complaint is filed.)

In any event, having complaints that are better prepared and coordinated would assist the Department in rendering a final decision addressing all possible issues relating to reasonableness within the statutory time-frame. The Department therefore solicits comments on possible filing requirements that would help ensure that any complaint filed under this subpart is well-documented and fully coordinated. One such possibility might be to require the first carrier to file a complaint about the fees at a particular airport to give other carriers at least seven days advance notice of its intention to file the complaint. Of course, this approach would itself present at least one problem, namely that carriers would be unable to file a complaint under this subpart for the first seven days following imposition of the fee. There may also be potential difficulty in ascertaining compliance with an advance notice requirement and in ensuring that it does not unduly interfere with the opportunity to file a complaint near the end of the 60-day statutory limit. Commenters are invited to address these issues, and, if they support an approach along these lines, to recommend any ways to avoid the potential problems.

For the reasons stated above, and despite the drawback described, we have tentatively concluded that Approach (3) is less objectionable than either handling complaints individually or allowing some early-filed complaints to remain unresolved for more than 120 days. We believe the procedure proposed in this notice would meet substantially all of the objectives of Section 113. Nevertheless, we are interested both in commenters' views about the other two approaches described and in any suggestions for a solution that we have not yet considered. If a plan is presented that is superior to our proposal, it may be incorporated into the final rule in this proceeding.

Section-by-Section Analysis

Section 302.601 Applicability

This section describes the kinds of proceedings for which the Department would employ the expedited procedures contained in this Subpart. As required by the 1994 FAA Authorization Act, complaints by air carriers would be reviewed under these procedural rules. In addition, paragraph (a) of proposed Section 302.601 states that a comparable complaint brought by a foreign air carrier would be treated in the same manner. This Subpart also contains the procedural rules for reviewing an airport owner or operator's request for a determination of the reasonableness of an airport fee.

The Authorization Act requires the Secretary to determine the reasonableness of an airport fee after a complaint is filed by "one or more air carriers (as defined in section 40102 of this subtitle)." Since the definition of "air carrier" in 49 U.S.C. Section 40102 is limited to "a citizen of the United States * * *" this rule could be limited to complaints by U.S. airlines. However, as noted, the Department has tentatively concluded that foreign air carriers should have access to the same procedures. The economic and other issues that enter into a determination of reasonableness of an airport fee are the same, irrespective of whether the complainant is a domestic or foreign carrier. Accordingly, if both U.S. and foreign air carriers believe an airport fee increase is unreasonable, they both may be expected to dispute it. The interests of the carriers, the airport, and the Department are likely to be best served if the reasonableness of the fee can be determined in a single proceeding. A potential problem, however, arises from the fact that the procedures of proposed Subpart F are highly abbreviated; by statute, carrier complaints are barred unless they are brought within 60 days of the airport's written notice of the new fee or fee increase. This requirement may pose special problems for foreign air carriers. Accordingly, we invite comments from foreign air carriers as to whether to include their complaints within this Subpart.

Section 302.601(a) states that Subpart F also applies to a request by an airport owner or operator for a determination of the reasonableness of a fee it has imposed on one or more air carriers. The FAA Authorization Act requires the Department to make such a determination when requested in writing by an airport. However, the Authorization Act does not state any time limits for the Department's action on the request.

This Subpart proposes procedures for handling airport requests for determination that are much the same as those for air carrier complaints. Most importantly, the Secretary's determination that a fee is reasonable or unreasonable will be made within 120 days. However, there are a number of differences that derive from the different statutory treatment of air carrier complaints and airport requests for determination. These will be discussed in more detail in connection with the sections where they apply.

The Authorization Act requires the Secretary to issue a determination about the reasonableness of a fee that has been "imposed" on carriers. Section 601(a) provides that a fee would be considered to have been imposed once the airport owner or operator had taken all steps necessary under its procedures to

establish the fee. Airport owners and operators have different internal procedures, and so the steps necessary will vary from airport to airport. However, as the Authorization Act indicates in new Section 47129(a)(1)(B), airports must always give carriers written notice when imposing a new or increased fee.

Because Subpart F would be limited to fees actually imposed, the Department does not propose to consider requests for advisory opinions about airport fees that are still under consideration by the airport owner or operator. In general, fee changes should be based on discussion between airports and carriers, as they almost always are today. The procedures contained in this Subpart are intended to resolve significant disputes when negotiations have failed.

On the other hand, paragraph (a) points out that a fee may be considered to have been imposed even if it is not yet being paid by the carriers. For example, if an airport owner or operator provides written notice on January 1 that a fee will increase on February 1, an air carrier may immediately file a complaint under this Subpart. There may even be situations in which a carrier would be forced to bring any complaint before it had to pay the fee. The Authorization Act provides for carrier complaints only for 60 days after the carrier receives the written notice. If an airport provides more than 60 days' notice of a fee, the filing period would expire before the fee is first collected.

Paragraph (b) of § 302.601 sets out the three limitations on applicability contained in the Authorization Act. The Secretary would not entertain complaints about a fee imposed pursuant to a written agreement with carriers using the facilities of an airport; a fee imposed pursuant to a financing agreement or covenant entered into prior to August 23, 1994, or any other existing fee not in dispute as of August 23, 1994. August 23, 1994 is the date the Authorization Act was enacted.

Section 302.603 Complaint by an Air Carrier or Foreign Air Carrier; Request for Determination by an Airport Owner or Operator

This section describes the requirements for carrier complaints and airport requests for determination. Paragraph (a) states that both complaints and requests would be submitted in accordance with the usual technical requirements of proceedings under 14 CFR Part 302. (14 CFR § 302.3 specifies such matters as the number of copies to be filed, the size of pages that may be used, and the filing address.)

The statutory language in new 49 U.S.C. section 47129(a) provides for a (single) determination of the reasonableness of an airport's disputed fees. If there were a multiplicity of separate proceedings with respect to the same airport fee or fees, it is possible that each case would present only part of the information that would be relevant and necessary to the Secretary's determination. At worst, multiple cases could lead to inconsistent decisions. Moreover, both airports and carriers would be unnecessarily burdened if they had to litigate more than one case about a particular airport's fees. The Secretary must act rapidly in order to resolve any issues in a carrier complaint within the 120-day deadline imposed by the FAA Authorization Act.

Therefore, to ensure an orderly disposition of carrier complaints, proposed § 302.603 would provide procedures to ensure that the Secretary can consolidate all related proceedings. Once a carrier submits a complaint under this Subpart, other air carriers or foreign air carriers wishing to file their own complaints would have seven days to do so. An airport owner or operator's request for determination would also have to be submitted no later than seven days after a carrier complaint. Of course, as provided by the Authorization Act, all complaints would have to be submitted within 60 days of the written notice, even if this is less than seven days after the initial complaint. The Department proposes to apply the same 60-day limit to airport requests. The statute did not state any specific limit on the timing of airport requests, but fee increases may not be contested under this Subpart after the 60-day limit. Any decision on an airport request filed after that date would amount to a legally moot advisory opinion.

Section 302.605 Contents of Complaint or Request for Determination

In order to ensure that all interested parties have an opportunity to review and respond to complaints and requests for determination, § 302.605 proposes two special requirements on their filing and service. First, the complaint or request must contain the filing party's entire position and supporting evidence. The complaint or request would have to be accompanied by a brief explaining the party's arguments, and any supporting exhibits and testimony. In order to clarify the nature of the dispute and to verify the timeliness of the filing, a copy of the airport owner or operator's written notice to the carrier would also be required.

As proposed, a complaining carrier would be required to serve the airport owner or operator and all other air carriers and foreign air carriers serving the airport with a copy of the complaint, brief, and all testimony and supporting exhibits. An airport owner or operator requesting a determination would serve all carriers at the airport. We recognize that the requirement to serve all carriers might sometimes be burdensome. Moreover, many airports have an established airline committee responsible for negotiating airport fees and charges with the airport owner or operator. These committees have various titles, including Airline Properties Committee, Airport Affairs Committee, Airline Negotiating Committee, and Airline Top Committee. Section 302.605 proposes to authorize service of the complaint or request on all members of the airline committee in lieu of all carriers serving the airport. We invite commenters to address whether service on members of these committees would be adequate to ensure that all interested carriers have an opportunity to review complaints and requests for determination; we also invite commenters to recommend any alternative service requirements.

In addition, because proposed § 302.603 would require any other complaints or request for determination to be submitted within seven days of the first complaint, ordinary service by first class mail would not be permitted. The filing party would be required to accomplish service by hand, by electronic transmission (such as facsimile or electronic mail) or by overnight express delivery. The filing carrier or airport would also have to certify that the parties served had actually received the documents by the time they are filed or would receive them no later than the day of the filing. The Department recognizes that these additional service requirements might pose a burden on some parties, but we think they are necessary to make a proper consolidation of all complaints, and thus to an orderly disposition of the fee or fees in dispute.

Finally, the filing carrier or airport would also be required to certify that it had previously attempted to resolve the fee dispute directly. We believe this requirement is necessary to facilitate our statutorily-required decision about whether a significant dispute exists. If attempts at direct resolution have failed, that would be some indication, athough not necessarily proof, that there is a signifiant dispute. We do not, however, intend to evaluate the amount or adequacy of any efforts at a direct resolution of the dispute. We ask only that an attempt be made before the complaint or request is submitted.

Section 302.607 Answers to a Complaint or Request for Determination

When a complaint is filed under this Subpart, § 302.607 would provide that the airport owner or operator and any other air carrier or foreign air carrier serving the airport may file an answer to the complaint. In the case of an airport request for determination, any carrier serving the airport would be authorized to file an answer. Procedurally, answers would be filed in the same manner as described above for complaints. The answer would consist of a single submission including all the answering party's responsive arguments, testimony and exhibits. The answering party would be required to serve the carrier filing the complaint or airport owner or operator requesting the determination by hand, by electronic transmission, or by overnight express delivery. The answering party would have to certify that the answer and accompanying documents would be received no later than the day the answer is due. Section 302.607 does not propose to require answers to be served on other carriers.

Under the proposal, answers would be due seven calendar days after the complaint or request for determination is filed. In the case of carrier complaints, this is the same day on which other carriers would be required to file any other complaint with respect to the same airport fee or fees. Therefore, upon receiving a copy of a complaint filed by another carrier, an air carrier or foreign air carrier could file its own complaint or an answer to the first complaint. The proposed rules would not prohibit a carrier from filing both an answer and a complaint, but the Department encourages all parties to avoid filing unnecessarily duplicative documents. It should be noted that any additional complaints filed are also subject to an answer under § 302.607; any such answer would be due seven calendar days after the complaint, or a total of 14 days after the initial complaint.

Section 302.609 Replies

Only the carrier originating a complaint or the airport originating a request for determination would be authorized to file a reply. The complaining air carrier or foreign air carrier could reply to an answer to the complaint, and the airport owner or operator could reply to an answer to the request for determination. In both cases, the reply would be due two calendar days after answers are filed. Replies by any other party would generally not be accepted, nor would further responsive pleadings. Such documents are governed by the requirements of Subpart A of 14 CFR Part 302. Because of the short deadline proposed for filing replies and the fact that the Department does not anticipate accepting further pleadings, proposed § 302.609 does not contain the special service requirements (hand, electronic, or overnight delivery, with service completed by the day of filing) proposed for initial pleadings and answers. Ordinary service as provided by 14 CFR § 302.8 (including service by mail) would still be required. Commenters are invited to address whether there is a need for additional service requirements for replies.

Section 302.611 Review of Complaints

This section provides for a preliminary evaluation by the Secretary to determine whether a carrier's complaint is subject to review under Subpart F. Unless a significant dispute exists, the FAA Authorization Act requires the Secretary to dismiss any complaint within 30 days after it is filed; when there is a significant dispute, the matter must be referred to an administrative law judge within that time.

Accordingly, paragraph (a) of § 302.611 proposes that the Secretary will determine whether a significant dispute exists and whether the complaint meets the procedural requirements of Subpart F within 30 days after the complaint is filed. If the Secretary determines that there is no significant dispute, the order dismissing the complaint would include an explanation of the reasons for that determination. If the Secretary determines that the complaint does not meet the procedural requirements of this Subpart (for example, the complaint was not properly served on the airport owner or operator), the Secretary would dismiss the complaint without prejudice. In this case, the order would explain any conditions necessary for the complaint to be re-filed.

Assuming, however, that the complaint raises a significant dispute and meets the procedural requirements, the Secretary would issue an instituting order consolidating all complaints and any request for determination, and assigning the consolidated case to an administrative law judge. The instituting order would describe the issues to be considered and the parties that will participate in the hearing. For example, the Secretary could determine that some of the matters raised in a complaint do not raise a significant dispute, in which case the instituting order would limit the scope of the proceeding. The instituting order could similarly place limits on the parties, such as by excluding a complainant that is not an air carrier or foreign air carrier. The order would state when the administrative law judge would be required to issue a recommended decision (60 days after the instituting order, unless the order specifies a shorter period).

Section 302.613 Review of Requests for Determination

Proposed § 302.613 provides that an airport owner or operator's request for determination of the reasonableness of an airport fee would generally be handled in the same manner as a carrier complaint. Within 30 days after the airport's request is filed, the Secretary would determine whether there is a significant dispute and whether the procedural requirements of the Subpart have been met. Properly submitted requests raising a significant dispute would be assigned to an administrative law judge, with appropriate guidelines on the scope of the issues and the parties to participate. If there is a procedural deficiency, the request would be dismissed without prejudice, and the order of dismissal will set forth the terms and conditions under which a revised request could be filed.

However, the FAA Authorization Act does not appear to permit the Secretary to dismiss an airport owner or operator's requests for determination on the basis that it does not raise a significant issue. As noted above in § 302.613, when an air carrier files a complaint, the statute states that "the Secretary shall dismiss the complaint if no significant dispute exists." With respect to a request by an airport owner or operator, however, the statute provides only that the Secretary "shall issue a determination as to whether a fee imposed upon one or more air carriers * * * is reasonable * * * a written request for such determination is filed with the Secretary by such owner or operator."

Accordingly, section 302.613 does not propose to dismiss airport requests that do not present a significant dispute. Instead, the Secretary would generally issue a final order determining whether the fee is reasonable. This would sometimes occur without additional procedures, but the Secretary would retain discretion to determine in a particular case that additional procedures are necessary.

Section 302.615 Decision by Administrative Law Judge

This proposed section merely restates the requirement of the FAA Authorization Act that the administrative law judge must issue a

recommended decision within 60 days after the case is assigned by the Secretary for hearing. As permitted by the statute, this section also states that the Secretary may specify a shorter period for the recommended decision.

Section 302.617 Petitions for Discretionary Review

Any party to the proceeding could file a petition for discretionary review of the administrative law judge's decision within five days after the recommended decision is served. The petitioner would serve all parties. As with other documents under this Subpart, service would be by hand, electronic transmission or overnight express delivery, and the petition would have to certify that all parties had received the petition or would receive it by the date of filing. Petitions would be limited to 20 pages in length, as provided in 14 CFR 302.28(a).

Any other party could then submit an answer, which would be due four days after the petition is filed. Under 14 CFR § 302.28(b), answers to petitions would be limited to 15 pages.

Section 302.619 Completion of Proceeding

This section sets out the completion dates for proceedings conducted under this Subpart.

Paragraph (a) states that the Secretary will issue a final order determining whether the disputed fee is reasonable within 120 days after the filing of a complaint by an air carrier or foreign air carrier, unless the complaint is dismissed as provided in proposed § 302.611. This is the time limit for resolving air carrier complaints set forth in the FAA Authorization Act.

Paragraphs (b) and (c) address proceedings involving requests for determination by airport owners and operators. Although the FAA Authorization Act does not impose a time limit on such requests, § 302.619 proposes a 120-day limit on these proceedings as well. When an airport has filed a request for determination but there are no carrier complaints with respect to the same fee, paragraph (b) states that the Secretary would issue a final order within 120 days of the request. However, as noted in Section 302.613, the Department proposes to consolidate proceedings concerning the same airport fee or fees that are the subject of both a carrier complaint and an airport request for determination. In this situation, paragraph (c) provides that the timetable for resolving carrier complaints would control. Thus, if a carrier complaint is filed before the airport request, the Department would issue a final order in the consolidated proceeding in less than 120 days after the airport's request for determination. If one or more carriers file a complaint after the airport request, the 120-day period would begin on the day the first carrier complaint is filed.

There are two reasons for proposing to let the filing of a carrier complaint determine the time for issuing a final order. Most important, the Authorization Act mandates a 120-day resolution with respect to carrier complaints. An airport's subsequent request for determination cannot extend this period. Moreover, even when the airport's request is the first document filed in the proceeding, a complaint by an air carrier may raise new and significant issues. It is likely that the resolution of these issues will take most or all of the time permitted by the Authorization Act.

Section 302.621 Final Order

Section 302.621 would provide for the issuance of a final order by the Secretary when a proceeding brought under this Subpart, whether by complaint or request for determination, is ripe for decision. The Secretary would issue a written order containing his or her determination as to whether or not the disputed airport fee is reasonable.

Section 302.621 proposes that the order would set out the reasoning underlying the Secretary's determination, and, if a fee is determined to be unreasonable, the order would provide for a refund or credit of the unreasonable charge. The exact terms under which the refund or credit would be ordered would vary with the particular circumstances of each case, but the Department intends to ensure prompt action. The FAA Authorization Act, in new 49 U.S.C. Section 47129(a)(3), limits the Secretary's order to determining reasonableness, and the order would not set the level of the fee.

The Department anticipates that the Secretary will issue all final orders. However, the FAA Authorization Act expressly provides that the administrative law judge's decision will be deemed the final order of the Secretary, if the Secretary fails to issue an order within 120 days after a complaint is filed. This requirement is reflected in Section 302.621(c). The Authorization Act imposes this requirement only with respect to complaints by air carriers. Therefore, while the Department intends to resolve airport requests for determination within 120 days after they are filed, Section 302.621 does not contain any provision for automatic adoption of the administrative law judge's decision. Of course, when an airport request is considered in a consolidated proceeding along with a carrier complaint, the airport request will be processed under the same schedule as the complaint.

Regulatory Evaluation Summary

This NPRM proposes the adoption of new procedures for the filing and adjudication of complaints by air carriers and foreign air carriers alleging that an airport has imposed an unreasonable fee or charge on the complaining carrier. It also proposes corresponding procedures under which an aiport owner or operator may request and receive a determination of the reasonableness of a fee or charge it has imposed on one or more air carriers or foreign air carriers. The new procedures would be substituted for existing procedures under 14 CFR Part 13, and impose no new substantive requirements on either carriers or airports. Accordingly, the Department tentatively concludes that the economic impact of the proposed rule would be minimal and that further calculation of the economic effects is not warranted.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. This proposal contains procedural requirements for processing carrier complaints and airport requests. The Department concludes that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Federalism Implications

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

Paperwork Reduction Act

This proposed rule contains no information collection requirements that require approval of the Office of Management and Budget pursuant to the

Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

Conclusion

Although the Department has concluded that the economic effects of this proposal are minimal, the proposal is considered significant under Executive Order 12866 because of the public interest in this rulemaking. The Department certifies that this proposal, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1978).

The Proposed Amendments

Accordingly, the Department of Transportation proposes to adopt a new Subpart F to amend 14 CFR part 302 as follows:

1. The authority citation for 14 CFR Part 302 is revised to read:

Authority: 5 U.S.C. 551 et seq., 39 U.S.C. 5402; 42 U.S.C. 4321, 49 U.S.C. 40101, 40102, 40113, 40114, Chapters 411–415, 41702, 41705, 41706, 41901, 41907, 41909, 41910, 42111, 46301, 46302, 46303, 46105, 47129.

2. A new Subpart F is added to 14 CFR Part 302 to read as follows:

PART 302—RULES OF PRACTICE IN PROCEEDINGS

Subpart F—Rules Applicable to Proceedings Concerning Airport Fees

Sec.

302.601 Applicability of this subpart.
302.603 Complaint by an air carrier or foreign air carrier; request for determination by an airport owner or operator.
302.605 Contents of complaint or request for determination.
302.607 Answers to a complaint or request for determination.
302.609 Replies.
302.611 Review of complaints.
302.613 Review of requests for determination.
302.615 Decision by administrative law judge.
302.617 Petitions for discretionary review.
302.619 Completion of proceedings.
302.621 Final order.

Subpart F—Rules Applicable to Proceedings Concerning Airport Fees

§ 302.601 Applicability of this subpart.

(a) This subpart contains the specific rules that apply to a complaint filed by one or more air carriers or foreign air carriers, pursuant to 49 U.S.C. Section 47129(a), for a determination of the reasonableness of a fee increase or a newly established fee imposed upon the air carrier or foreign air carrier by the owner or operator of an airport. This subpart also applies to requests by the owner or operator of an airport for such a determination. An airport owner or operator has imposed a fee on an air carrier or foreign air carrier when it has taken all steps necessary under its procedures to establish the fee, whether or not the fee is being collected or carriers are currently required to pay it.

(b) This subpart does not apply to—

(1) a fee imposed pursuant to a written agreement with air carriers or foreign air carriers using the facilities of an airport;

(2) a fee imposed pursuant to a financing agreement or covenant entered into prior to August 23, 1994 or

(3) any other existing fee not in dispute as of August 23, 1994.

§ 302.603 Complaint by an air carrier or foreign air carrier; request for determination by an airport owner or operator.

(a) Any air carrier or foreign air carrier may file a complaint with the Secretary for a determination as to the reasonableness of any fee imposed on the carrier by the owner or operator of an airport. Any airport owner or operator may also request such a determination with respect to a fee it has imposed on one or more air carriers. The complaint or request for determination shall conform to the requirements of this subpart and 14 CFR 302.3 concerning the form and filing of documents.

(b) If an air carrier or foreign air carrier has previously filed a complaint with respect to the same airport fee or fees, any complaint by another carrier and any airport request for determination shall be filed no later than 7 calendar days following the initial complaint. In addition, all complaints or requests for determination must be filed on or before the 60th day after the carrier receives written notice of the establishment or increase of the fee.

(c) To ensure an orderly disposition of the matter, all complaints and any request for determination filed with respect to the same airport fee or fees will, as provided in §§ 302.611 and 302.613, be considered in a consolidated proceeding.

§ 302.605 Contents of complaint or request for determination.

(a) The complaint or request for determination shall set forth the entire grounds for requesting a determination of the reasonableness of the airport fee. The complaint or request shall include a copy of the airport owner or operator's written notice to the carrier of the imposition of the fee, a statement of position with a brief, and all supporting testimony and exhibits on which the filing party intends to rely. In lieu of submitting duplicative exhibits or testimony, the filing party may incorporate by reference testimony and exhibits already filed in the same proceeding.

(b) When a carrier files a complaint, it must also submit the following certifications:

(1) The carrier has served the complaint, brief, and all supporting testimony and exhibits on the airport owner or operator and all other air carriers and foreign air carriers serving the airport by hand, by electronic transmission, or by overnight express delivery. (At airports with a committee of carriers responsible for negotiating airport fees and charges, the complaining carrier may instead serve all members of that committee and the airport owner and operator);

(2) The parties served have received the complaint, brief, and all supporting testimony and exhibits or will receive them no later than the date the complaint is filed; and

(3) The carrier has previously attempted to resolve the dispute directly with the airport owner or operator.

(c) When an airport owner or operator files a request for determination, it must also submit the following certifications:

(1) The airport owner or operator has served the request, brief, and all supporting testimony and exhibits on all air carriers and foreign air carriers serving the airport by hand, by electronic transmission, or by overnight express delivery. (At airports with a committee of carriers responsible for negotiating airport fees and charges, the complaining carrier may instead serve all members of that committee.);

(2) The carriers served have received the request, brief, and all supporting testimony and exhibits or will receive them no later than the date the request is filed; and

(3) The airport owner or operator has previously attempted to resolve the dispute directly with the carriers.

§ 302.607 Answers to a complaint or request for determination.

(a) (1) When an air carrier or foreign air carrier files a complaint under this subpart, the owner or operator of an airport and any other air carrier or foreign air carrier serving the airport may file an answer to the complaint as provided in paragraphs (b) and (c) of this section.

(2) When the owner or operator of an airport files a request for determination

of the reasonableness of a fee it has imposed, any air carrier or foreign air carrier serving the airport may file an answer to the request.

(b) The answer to a complaint or request for determination shall set forth the answering party's entire response. The answer shall include a statement of position with a brief and any supporting testimony and exhibits on which the answering party intends to rely. In lieu of submitting duplicative exhibits or testimony, the filing party may incorporate by reference testimony and exhibits already filed in the same proceeding.

(c) Answers to a complaint or request for determination shall be filed no later than seven calendar days after the filing date of the complaint.

(d) The answering party must also submit the following certifications:

(1) The answering party has served the answer, brief, and all supporting testimony and exhibits by hand, by electronic transmission, or by overnight express delivery on the carrier filing the complaint or the airport owner or operator requesting the determination; and

(2) The parties served have received the answer and exhibits or will receive them no later than the filing date of the answer.

§ 302.609 Replies.

(a) The carrier submitting a complaint may file a reply to any or all of the answers to the complaint. The airport owner or operator submitting a request for determination may file a reply to any or all of the answers to the request for determination.

(b) The reply shall be limited to new matters raised in the answers. It shall constitute the replying party's entire response to the answers. It shall be in the form of a reply brief and may include supporting testimony and exhibits responsive to new matters raised in the answers. In lieu of submitting duplicative exhibits or testimony, the replying party may incorporate by reference testimony and exhibits already filed in the same proceeding.

(c) The reply shall be filed no later than two calendar days after answers are filed.

(d) The carrier or airport owner or operator submitting the reply must certify that it has served the reply and all supporting testimony and exhibits on the party or parties submitting the answer to which the reply is directed.

§ 302.611 Review of complaints.

(a) Within 30 days after a complaint is filed under this subpart, the Secretary will determine whether the complaint meets the procedural requirements of this subpart and whether a significant dispute exists, and take appropriate action pursuant to paragraph (b), (c), or (d) of this section.

(b) If the Secretary determines that a significant dispute exists, he or she will issue an instituting order assigning the complaint for hearing before an administrative law judge. The instituting order will establish the scope of the issues to be considered and the procedures to be employed and will indicate the parties to participate in the hearing. The instituting order will consolidate into a single proceeding all complaints and any request for determination with respect to the fee or fees in dispute.

(c) The Secretary will dismiss any complaint if he or she finds that no significant dispute exists. The order dismissing the complaint will contain a concise explanation of the reasons for the determination that the dispute is not significant.

(d) If the Secretary determines that the complaint does not meet the procedural requirements of this subpart, the complaint will be dismissed without prejudice to filing a new complaint. The order of the Secretary will set forth the terms and conditions under which a revised complaint may be filed.

§ 302.613 Review of requests for determination.

(a) Following review of the pleadings and exhibits filed in connection with an airport owner or operator's request for determination of the reasonableness of a fee, the Secretary will determine whether the request meets the procedural requirements of this subpart and whether a significant dispute exists.

(b) If the Secretary determines that a significant dispute exists, he or she will issue an instituting order assigning the request for hearing before an administrative law judge. The instituting order will establish the scope of the issues to be considered and the procedures to be employed and will indicate the parties to participate in the hearing. The instituting order will consolidate into a single proceeding all complaints and any request for determination with respect to the fee or fees in dispute.

(c) If the Secretary finds that the request for determination presents no significant dispute, the Secretary will either issue a final order as provided in § 302.621 of this subpart or set forth the schedule for any additional procedures required to complete the proceeding. The determination will be issued within 120 days after the filing of the request by the airport owner or operator.

(d) If the Secretary determines that the request does not meet the procedural requirements of this subpart, the request for determination will be dismissed without prejudice to filing a new request. The order of the Secretary will set forth the terms and conditions under which a revised request may be filed.

§ 302.615 Decision by administrative law judge.

The administrative law judge shall issue a decision recommending a disposition of a complaint or request for determination within 60 days after the date of the instituting order, unless a shorter period is specified by the Secretary.

§ 302.617 Petitions for discretionary review.

(a) Within 5 calendar days after service of a decision by an administrative law judge, any party may file with the Secretary a petition for discretionary review of the administrative law judge's decision.

(b) Petitions for discretionary review shall comply with 14 CFR 302.28(a). The petitioner must also submit the following certifications:

(1) The petitioner has served the petition by hand, by electronic transmission, or by overnight express delivery on all parties to the proceeding; and

(2) The parties served have received the petition or will receive it no later than the date the petition is filed.

(c) Any party may file an answer in support of or in opposition to any petition for discretionary review. The answer shall be filed within 4 calendar days after service of the petition for discretionary review. The answer shall comply with the page limits specified in 14 CFR 302.28(b).

§ 302.619 Completion of proceedings.

(a) When a complaint with respect to an airport fee or fees has been filed under this subpart and has not been dismissed, the Secretary will issue a determination as to whether the fee is reasonable within 120 days after the complaint is filed.

(b) When a request for determination has been filed under this subpart and has not been dismissed, the Secretary will issue a determination as to whether the fee is reasonable within 120 days after the date the request for determination is filed.

(c) When both a complaint and a request for determination have been filed with respect to the same airport fee or fees and have not been dismissed, the

Secretary will issue a determination as to whether the fee is reasonable within 120 days after the complaint is filed.

§ 302.621 Final order.

(a) When a complaint or request for determination stands submitted to the Secretary for final decision on the merits, he or she may dispose of the issues presented by entering an appropriate order, which will include a statement of the reasons for his or her findings and conclusions. Such an order shall be deemed a final order of the Secretary.

(b) The final order of the Secretary shall include, where necessary, directions regarding an appropriate refund or credit of the fee increase or newly established fee which is the subject of the complaint or request for determination.

(c) If the Secretary has not issued a final order within 120 days after the filing of a complaint by an air carrier or foreign air carrier, the decision of the administrative law judge shall be deemed to be the final order of the Secretary.

Issued in Washington, DC, on October 20, 1994.

Federico Peña,

Secretary.

[FR Doc. 94–26385 Filed 10–20–94; 12:29 pm]

BILLING CODE 4910–62–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 14–4–6250; FRL–5095–8]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Yolo-Solano Air Pollution Control District (YSAPCD) and Kern County Air Pollution Control District (KCAPCD), SE Desert Portion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing a limited approval and limited disapproval to revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from the loading and storage of organic liquids.

The intended effect of proposing limited approval and limited disapproval of these rules is to regulate emissions of VOC's 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 (NPRM) will incorporate these rules into the federally approved SIP. EPA has evaluated the rules and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments must be received on or before November 23, 1994.

ADDRESSES: Comments may be mailed to: Daniel A. Meer, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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:

California Air Resources Board, 2020 L Street, Sacramento, CA 95814.

Kern County Air Pollution Control District (SE Desert), 2700 M Street, suite 290, Bakersfield, CA 93301.

Yolo-Solano Air Pollution Control District, 1947 Galileo Ct., suite 103, Davis, CA 95616.

FOR FURTHER INFORMATION CONTACT: Duane F. James, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1191.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being proposed for approval into the California SIP include: YSAPCD's Rule 2.21 (including Rule 2.21.1), Vapor Control for Organic Liquid Transfer and Storage (adopted by the District on November 14, 1990), and KCAPCD's Rules 411, Storage of Organic Liquids, and 413, Organic Liquid Loading (both adopted May 6, 1991). These rules were submitted by the California Air Resources Board to EPA on May 13, 1991 (YSAPCD) and May 30, 1991 (KCAPCD).

Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the Sacramento Metro Area, San Francisco-Bay Area, and San Joaquin Valley Air Basin.[1] 43 FR 8964; 40 CFR 81.305. Because the Sacramento Metro Area and the San Francisco-Bay Area were unable to reach attainment by the statutory attainment date of December 31, 1982, California requested under pre-amended section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.[2] 40 CFR 52.238. The Sacramento Metro and San Francisco-Bay Areas, and the San Joaquin Valley Air Basin did not attain the ozone standard by the approved attainment date. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the pre-amended Act, that the YSAPCD and KCAPCD portions of the SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, amendments to the 1977 CAA 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 reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991, for states to submit corrections of those deficiencies.

On March 20, 1991, the San Joaquin Valley Unified Air Pollution Control District was formed. This District has authority over the San Joaquin Valley Air Basin portion of Kern County. Thus, as of March 20, 1991, the KCAPCD has authority only over the Southeast Desert Air Basin portion of Kern County.

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 EPA's pre-amendment guidance.[3] EPA's SIP-Call used that

[1] Yolo County lies within the Sacramento Metro Area and Solano County lies in part in the Sacramento Metro Area and in part in the San Francisco-Bay Area. At the time, Kern County was included in the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment and the Southeast Desert Air Basin portion was designated as unclassified.

[2] This extension was not requested for Kern County. Thus, Kern County's Attainment date remained December 31, 1982.

[3] Among other things, the pre-amendment 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,

Continued

guidance to indicate the necessary corrections for specific nonattainment areas. The Sacramento Metro Area is classified as a serious ozone nonattainment area and the San Francisco-Bay Area is classified as moderate;[4] therefore, these two areas are subject to the RACT fix-up requirement and the May 15, 1991 deadline. All of Kern County is classified as serious.[5] However, the Southeast Desert Air Basin portion of Kern County was not a pre-enactment nonattainment area and, therefore, was not designated and classified upon enactment of the amended Act. For this reason, KCAPCD is not subject to the section 182(a)(2)(A) RACT fixup requirement. However, the KCAPCD is still subject to the requirements of EPA's SIP-Call because the SIP-Call included all of Kern County. The substantive requirements of the SIP-Call are the same as those of the statutory RACT fixup requirement.

The State of California submitted many RACT rules to EPA for incorporation into its SIP on May 13, 1991 (YSAPCD) and on May 30, 1991 (KCAPCD). This document addresses EPA's proposed action for YSAPCD's Rule 2.21 (including Rule 2.21.1), Vapor Control for Organic Liquid Transfer and Storage (adopted by the District on November 14, 1990), and KCAPCD's Rules 411, Storage of Organic Liquids, and 413, Organic Liquid Loading (both adopted May 6, 1991). These submitted YSAPCD and KCAPCD rules were found to be complete on July 10, 1991 and February 16, 1990, respectively, pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V[6] and are being proposed for limited approval and limited disapproval.

YSAPCD's Rule 2.21 controls emissions of VOCs from organic liquid (primarily gasoline) loading. As a subset of Rule 2.21, Rule 2.21.1 controls emissions from tank storage of organic liquids. KCAPCD's Rules 411 and 413 control VOC emissions during the storage and loading of organic liquids, respectively. VOC's contribute to the production of ground level ozone and smog. YSAPCD's Rule 2.21 and KCAPCD's Rules 411 and 413 were originally adopted as part of the districts' efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and have been revised in response to EPA's SIP-Call. YSAPCD's rule was also submitted in response to the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for YSAPCD Rule 2.21 and KCAPCD Rules 411 and 413.

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 3. 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 which specify the minimum requirements that a rule must contain in order to be approved into the SIP. The CTG's 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). Three CTGs are applicable to YSAPCD Rule 2.21: (1) "Control of Volatile Organic Emissions from Bulk Gasoline Plants," document EPA–450/2–77–035, (2) "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," document EPA–450/2–78–047, and (3) "Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks," document EPA–450/2–77–036. Two of these CTGs are also applicable to KCAPCD Rule 411: "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks" and "Control of Volatile Organic Emissions from Petroleum Liquid Storage in Fixed Roof Tanks. The CTG applicable to KCAPCD Rule 413 is "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," document EPA–450/2–77–026. Further interpretations of EPA policy are found in the Blue Book. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

YSAPCD's submitted Rule 2.21, Vapor Control for Organic Liquid Transfer and Storage, includes the following revisions of the current SIP rule:

1. Test methods for determining vapor pressure and vapor tightness have been added.
2. Provisions for equivalent or alternative control systems have been deleted.
3. VOC emission limits of 0.65 pounds per 1,000 gallons transferred have been added.
4. An exemption of facilities with a throughput of 20,000 gallons per day has been reduced to 4,000 gallons per day. The exemption of all tanks used in agriculture has been limited to those less than 550 gallons in capacity.
5. Requirements for recordkeeping have been added.
6. Requirements for submerged filling of tanks have been added.

There were no changes or additions to the subset Rule 2.21.1 which addresses storage tank requirements.

KCAPCD's submitted Rule 411, Storage of Organic Liquids, includes the following revisions to the current SIP rule:

1. The primary seal gap criteria have been made more stringent for floating roofs.
2. Recordkeeping provisions for exemptions have been added.
3. Test methods for the determination of exempt compounds, true vapor pressure, and control efficiency have been added.
4. The definitions section has been expanded making the rule clearer and more enforceable.

KCAPCD's submitted Rule 413, Organic Liquid Loading, includes the following revisions to the current SIP rule:

1. A definition of "leaks" and a test method for determining leaks have been added.
2. A VOC emission limit of 0.08 pounds per 1,000 gallons transferred has been added.

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 (CTG's).

[4] The Sacramento Metro Area and San Francisco-Bay Area retained their designations and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[5] The San Joaquin Valley Air Basin portion of the KCAPCD retained its nonattainment designation and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. The Southeast Desert Air Basin portion of the KCAPCD was designated nonattainment on November 6, 1991. See 56 FR 56694 (November 6, 1991).

[6] EPA adopted 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).

3. Test methods for the determination of compliance with the emission limit have been added.

4. A requirement for vapor controls when loading exempt liquids into a tank which previously contained nonexempt liquids (switch loading) has been added.

5. Recordkeeping requirements for exempt facilities have been added.

EPA has evaluated YSAPCD's submitted Rule 2.21 and KCAPCD's submitted Rules 411 and 413 for consistency with the CAA, EPA regulations, and EPA policy and has found that the revisions address and correct many deficiencies previously identified by EPA. These corrected deficiencies have resulted in clearer, more enforceable rules.

Although YSAPCD's submitted Rule 2.21 and KCAPCD's submitted Rules 411 and 413 will strengthen the SIP, these rules still contain deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of Part D of the CAA. In YSAPCD's Rule 2.21, there is an incorrect reference to a test method for determining compliance, and the type of facilities which have to meet the emission limits set by the rule is not defined. In KCAPCD's Rule 411, deficiencies include: (1) An exemption from EPA's new source review; (2) a reference to a test method, which has not been approved by EPA; and (3) a lack of recordkeeping requirements for exempt tanks. In KCAPCD's Rule 413, there are no recordkeeping requirements to determine if a facility needs to comply with the rule. A detailed discussion of rule deficiencies can be found in the Technical Support Documents (TSD's) for Rule 2.21 (September 30, 1993), Rule 411 (January 7, 1994), and Rule 413 (December 1, 1993), which are available from the U.S. EPA, Region 9 office. Because of these deficiencies, the rules are not approvable pursuant to the section 182(a)(2)(A) of the CAA because they are not consistent with the interpretation of section 172 of the 1977 CAA as found in the Blue Book and may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts which meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of YSAPCD's submitted Rule 2.21 and KCAPCD's submitted Rules 411 and 413 under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rules do not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this NPRM have been adopted by YSAPCD and KCAPCD and are currently in effect in those districts. EPA's final limited disapproval action will not prevent the districts or EPA from enforcing these rules.

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.

Limited 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, I certify that 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 into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *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).

EPA's limited disapproval of the State request under sections 110 and 301 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state enforceability. Moreover, EPA's limited disapproval of the submittal does not impose any new federal requirements. Therefore, EPA certifies that this limited disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new federal requirements.

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 11, 1994.

Felicia Marcus,

Regional Administrator.

[FR Doc. 94–26282 Filed 10–21–94; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 63

[AD-FRL-5091-9]

National Emission Standards for Hazardous Air Pollutants for Source Categories: Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: This action proposes to amend the national emission standards for hazardous air pollutants (NESHAP) for the synthetic organic chemical manufacturing industry, and other processes subject to the equipment leaks rule, promulgated in the **Federal Register** on April 22, 1994, and on June 6, 1994. The proposal would provide for an additional time period for owners or operators to conduct any necessary administrative procedures to ensure that a given plant site is designated as an area source and, hence, can be considered exempt from the requirements of the NESHAP. During this period, compliance requirements would be deferred so long as certain conditions were met, and sources continue to operate at actual emission levels below the threshold for major sources. This action is being proposed because the compliance date for certain equipment leak requirements of the NESHAP is approaching, and because the EPA believes in view of current circumstances that these requirements should not be imposed on sources that are likely to be designated as area sources in the relatively near future.

DATES: *Comments.* Comments must be received on or before November 23, 1994.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than November 23, 1994. If a hearing is held, it will take place on December 5, 1994, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air Docket (LE–131), Attention Docket Number A–90–19 (see docket section below), room M1500, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Theresa Adkins, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5645.

Docket. All information used in the development of this proposal is contained in the preamble below. However, Dockets No. A–90–19 through A–90–23, and A–89–10, containing the supporting information for the original NESHAP, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room M–6102, first floor, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Smith at (919) 541–4718, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Background

On April 22, 1994 (59 FR 19402), and June 6, 1994 (59 FR 29196) the EPA promulgated in the **Federal Register** NESHAP for the synthetic organic chemical manufacturing industry, and for several other processes subject to the equipment leaks portion of the rule. These regulations were promulgated as subparts F, G, H and I in 40 CFR part 63, and are commonly referred to as the hazardous organic NESHAP, or the HON. Today's action amends §§ 63.100 and 63.103 of subpart F, and § 63.190 of subpart I. These sections describe the applicability requirements of the HON. One aspect of the applicability determination, pursuant to paragraphs 63.100(b)(3) and 63.190(b), is that the processing unit must be "located at a plant site that is a major source as defined in section 112(a) of the Act."

Section 112(a) of the Act defines a "major source" as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits *or has the potential to emit* considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants * * *" (emphasis added). Any stationary source that does not emit, or have the potential to emit, these quantities, is defined by the Act as an "area source." (see definition in subpart A, 59 FR 12408).

On March 16, 1994, the EPA promulgated, in subpart A to 40 CFR part 63 (commonly referred to as the "general provisions" to part 63), a definition of "potential to emit" as follows:

> "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if *the limitation* or *the effect it would have on emissions* is federally enforceable." (emphasis added)

A key aspect of the potential to emit definition is that restrictions must be federally enforceable. The subpart A general provisions define "federally enforceable" as follows:

> "Federally enforceable" means all limitations and conditions that are enforceable by the Administrator and citizens under the Act or that are enforceable under other statutes administered by the Administrator. Examples of federally enforceable limitations and conditions include, but are not limited to:
>
> (1) Emission standards, alternative emission standards, alternative emission limitations, and equivalent emission limitations established pursuant to section 112 of the Act as amended in 1990;
>
> (2) New source performance standards established pursuant to section 111 of the Act, and emission standards established pursuant to section 112 of the Act before it was amended in 1990;
>
> (3) All terms and conditions in a title V permit, including any provisions that limit a source's potential to emit, unless expressly designated as not federally enforceable;
>
> (4) Limitations and conditions that are part of an approved State Implementation Plan (SIP) or a Federal Implementation Plan (FIP);
>
> (5) Limitations and conditions that are part of a Federal construction permit issued under 40 CFR 52.21 or any construction permit issued under regulations approved by the EPA in accordance with 40 CFR Part 51;
>
> (6) Limitations and conditions that are part of an operating permit issued pursuant to a program approved by the EPA into a SIP as meeting the EPA's minimum criteria for Federal enforceability, including adequate notice and opportunity for EPA and public comment prior to issuance of the final permit and practicable enforceability;
>
> (7) Limitations and conditions in a State rule or program that has been approved by the EPA under subpart E of this part for the purposes of implementing and enforcing section 112; and
>
> (8) Individual consent agreements that the EPA has legal authority to create.

The EPA is in the process of clarifying, through guidance and rulemaking, the administrative procedures that can be used by source

owners or operators to create federally enforceable restrictions on their potential to emit. These procedures would also document when and how existing restrictions in State and local programs can be considered federally enforceable. Additionally, these procedures would enable state and local agencies to gain approval for programs and rules that can establish federally enforceable limitations on the potential to emit hazardous air pollutants.

The EPA is aware of a number of instances of plant owners or operators who believe that their plants are operating under restrictions that ensure that actual emissions will be at area source emission levels. However, for many such instances, there may be additional administrative procedures that must be carried out to ensure that these restrictions are federally enforceable before applicable compliance dates. As previously noted, the Agency is in the process of providing additional clarification on the procedures by which HAP-emitting facilities may obtain federally enforceable limits to achieve area source status. Pending establishment of federally enforceable limitations on the plant site's potential to emit, owners or operators of plants with actual emissions below the major threshold (but potential emissions above the threshold) are required to comply with the equipment leak standards in subpart H. In view of current circumstances, the EPA believes that if such sources can adequately document that they are actually emitting at area source levels, and will commit to maintaining their actual emissions at area source levels pending the establishment of federally enforceable limits, that such sources should be given additional time to achieve area source status by obtaining federally enforceable limits.

The purpose of today's rulemaking is to provide a deferral of HON requirements for source owners or operators who wish to make such a certification, and to establish minimum documentation requirements. Elsewhere in today's **Federal Register**, EPA is announcing a 3-month partial stay and reconsideration of the NESHAP for certain qualifying sources, and is proposing to extend the compliance date for sources affected by the stay in the event that additional time is needed to complete this rulemaking.

This proposal should not be viewed as a precedent for other categories of sources to be regulated under section 112 because it is based on unique circumstances that exist at this time. The Agency also wishes to stress that this proposal is strictly a compliance date extension for certain qualifying sources and sets no precedents regarding how or when facilities can achieve area source status.

II. Summary of and Rationale for Rule Changes

A. Deferral of Requirements for Sources Making an Area Source Certification

The certification and documentation process would be established by adding a new paragraph (b)(4) to § 63.100, a new paragraph (f) to § 63.103, and new paragraphs (b)(7) and (b)(8) to § 63.190. These provisions: (1) would require that the owner and operator provide a certification that the source is operating such that its total actual annual emissions are less than 10 tons of any one HAP and less than 25 tons of multiple HAP and will continue to operate at or below this level pending the establishment of federally enforceable limits, (2) would require the owner or operator to maintain documentation of specific calculations, and (3) would allow the EPA the option of reviewing the documentation. Where, in the EPA's judgement, the source does not qualify based upon a review of the calculations, the source would be notified and would then become subject to the HON requirements within 90 days.

The EPA believes that the certification and documentation process for today's deferral should be relatively straightforward. The EPA requests comment on the level of detail that should be required.

In addition, the EPA requests comment on how the Agency should verify that facilities qualifying for the deferral continue to emit at area source levels during the deferral period. Today's proposal would require the owner or operator to provide updated emissions information at the Agency's request. The Agency seeks comment on what additional monitoring, recordkeeping and reporting requirements may be needed given the purposes of today's rule, and on the frequency and level of detail of such requirements. For example, the EPA is considering requiring the owner or operator to submit an annual report on plantwide emission levels of each HAP. As an alternative, EPA is considering requiring owners and operators to re-certify annually that they qualify for the exemption and to maintain documentation of the updated emissions estimates used as the basis for the re-certification.

The proposed deferral would extend until April 22, 1997, that is, the date 3 years after promulgation of the HON. This would give facilities significant additional time to obtain federally enforceable restrictions that limit hazardous air pollutant emissions. The Act does not permit extension of the deadline for existing major source compliance with the requirements of the rule beyond 3 years from the date of promulgation. Sources for which federally enforceable restrictions are not in place after 3 years would be subject to any applicable requirement of the HON, including the requirements of subpart G.

Proposed paragraphs 63.100(b)(4)(ii) and 63.190(b)(7)(ii) are intended to clarify that sources which have federally enforceable restrictions, such that they can be considered area sources, are not subject to the recordkeeping requirements of the proposed amendments. Although these regulatory passages are not essential, because only "major sources" are subject to the HON, the EPA believes that these paragraphs could eliminate any possible ambiguities that could be perceived. The EPA requests comment on these paragraphs.

The EPA believes that implementation of these procedures could be delegated to State and local agencies.

B. Emission Calculations

The EPA does not intend for the proposal, which would require the source owner to "maintain documentation" of emissions, to result in protracted technical discussions between the source owner and the EPA. It is important, however, to mention a few guidelines on the nature of the proposed emission rate documentation process.

For purposes of emission calculations for organic chemical manufacturing facilities, the proposed rule lists as examples the equations in § 63.150 of the HON and the documentation procedures in §§ 63.74 (c), (d) and (g) of the rule implementing the early reductions program. These procedures are similar to the procedures in EPA–450/3–91–012a, Procedures for Establishing Emissions for Early Reduction Compliance Extensions, where applicable. This document contains work sheets for providing calculations for process vents, storage tanks, equipment leaks, loading operations, and wastewater operations. For emission points in other source categories not addressed by these techniques, the EPA recommends the use of EPA-developed emission factors where available, and engineering judgement where such factors not available.

The EPA emphasizes that it would not be sufficient for purposes of today's proposal for sources to merely provide a copy of plantwide totals reported to the toxic release inventory (TRI). The EPA believes that a deferral or exemption of requirements requires documentation on a point by-point basis of the parameters (operating characteristics and emission controls) used to make each calculation.

In addition, the EPA wishes to emphasize that emissions from the entire plant site must be considered, not just those potentially affected by the HON. Today's amendment makes clear that the demonstration must include all emission points at the contiguous facility, including such non-HON sources as boilers, non-HON process units such as polymers and resins production facilities, cooling towers, and any other possible source of hazardous air pollutant emissions from the plant.

At the same time, the EPA does not believe that the emission documentation records need to provide precise estimates for emitting sources that make a trivial contribution to the total. The EPA requests comment on whether specific language could be added to the amendments to define trivial contributors.

III. Administrative Requirements

A. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by the Office of Management and Budget (OMB). A copy of this Information Collection Request (ICR) document (OMB control number 1414.02) may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M Street, SW.; Washington, DC 20460 or by calling (202) 260–2740.

Today's changes to the NESHAP would have a minor impact on the information collection burden estimates made previously. The EPA estimates that there are a small number of sources (perhaps 20 to 40 plant sites) with actual emission levels that would qualify for today's proposed amendment. For these plant sites, the EPA believes there would typically be one or two chemical production units, and consequently the number of calculations would be relatively low. Additionally, the impacts would be tempered by a reduction in the burden associated with compliance with the equipment leak provisions. As a result, the EPA believes that any additional impacts would have an insignificant effect on the burden estimate, within the uncertainty of the original analysis. Therefore, the ICR has not been revised.

B. Executive Order 12866 Review

The HON rule promulgated on April 22, 1994 was considered "significant" under Executive Order 12866 and a regulatory impact analysis (RIA) was prepared. The amendments proposed today would have a very small impact on the results of the RIA. As mentioned previously, the EPA believes that on balance the change is within the uncertainty of the analysis. The impacts on emission reductions are also believed to be negligible, because the impact calculations performed in the RIA were realized based on major sources affected by the standard, and no small sources were expected to be subject to the requirements of the HON.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.

List of Subjects in 40 CFR Part 63

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 11, 1994.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 63 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows.

Title 40, chapter I, part 63, of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416, and 7601.

2. Section 63.100 is amended by revising paragraph (b) introductory text and adding paragraph (b)(4) to read as follows:

§ 63.100 Applicability and designation of source.

* * * * *

(b) Except as provided in paragraph (b)(4) of this section, the provisions of subparts F, G, H of this part apply to chemical manufacturing process units that meet all the criteria specified in paragraphs (b)(1), (b)(2), and (b)(3) of this section:

* * * * *

(4) The owner or operator of a chemical manufacturing processing unit is exempt from all requirements of subparts F, G, and H until not later than April 22, 1997 if the owner or operator certifies, in a notification to the Administrator, not later than [*date 30 days after publication of the final rule*] that the plant site at which the chemical manufacturing processing unit is located emits, and will continue to emit, during any 12-month period, less than 10 tons per year of any individual hazardous air pollutant, and less than 25 tons per year of any combination of hazardous air pollutants.

(i) If such a determination is based on limitations and conditions that are not federally enforceable (as defined in subpart A of this part), the owner or operator shall document the basis for the determination as specified in paragraphs (b)(4)(i)(A) through (b)(4)(i)(C) and comply with the recordkeeping requirement in § 63.103(f).

(A) The owner or operator shall identify all HAP emission points at the plant site, including those emission points subject to and emission points not subject to subparts F, G, and H of this part;

(B) The owner or operator shall calculate the amount of annual HAP emissions that have been released from each emission point, using acceptable measurement or estimating techniques for maximum operating conditions at the site. Examples of estimating procedures that are considered acceptable include the calculation procedures in § 63.150 of subpart G, the early reduction demonstration procedures specified in § 63.74 (c)(2), (c)(3), (d)(2), (d)(3), and (g), or, for sources to which these procedures are not available, accepted engineering practices.

(C) The owner or operator shall sum the amount of annual HAP emissions from all the emission points on the plant site. If the total emissions of any one HAP are less than 10 tons per year and the total emissions of any combination of HAP are less than 25

tons per year, the plant site qualifies for the exemption described in paragraph (b)(4) of this section, provided that emissions are kept below these thresholds.

(ii) If such a determination is based on limitations and conditions that are federally enforceable (as defined in subpart A of this part), the owner or operator is not subject to the recordkeeping requirement in § 63.103 (f).

* * * * *

3. Section 63.103 is amended by adding paragraph (f) to read as follows:

§ 63.103 General compliance, reporting and recordkeeping requirements.

* * * * *

(f) To qualify for the exemption specified in § 63.100(b)(4), the owner or operator shall maintain the documentation of the information required pursuant to § 63.100(b)(4)(i), and documentation of any update of this information requested by the Administrator, and shall provide the documentation to the Administrator upon request. The Administrator may notify the owner or operator, after reviewing such documentation, whether, in the Administrator's judgment, the source does not qualify for the exemption specified in § 63.100(b)(4). The exemption provided for in § 63.100 (b)(4) will expire 90 days from the date of such notification by the Administrator.

4. Section 63.190 is amended by revising paragraph (b) introductory text and adding paragraph (b)(7) to read as follows:

§ 63.190 Applicability and designation of source.

* * * * *

(b) Except as provided in paragraph (b)(7) of this section, the provisions of subparts I and H of this part apply to emissions of the designated organic hazardous air pollutants from the processes specified in paragraphs (b)(1) through (b)(6) of this section that are located at a plant site that is a major source as defined in section 112(a) of the Act. The specified processes are further defined in § 63.191.

* * * * *

(7) The owner or operator of a process unit specified in paragraphs (b)(1) through (b)(6) of this section is exempt from all requirements of subpart I until not later than April 22, 1997, if the owner or operator certifies, in a notification to the Administrator, not later than [insert date 30 days after publication of the final rule] that the plant site at which the chemical manufacturing processing unit is located emits, and will continue to emit, during any 12-month period, less than 10 tons per year of any individual hazardous air pollutant, and less than 25 tons per year of any combination of hazardous air pollutants.

(i) If such a determination is based on limitations and conditions that are not federally enforceable (as defined in subpart A of this part), the owner or operator shall document the basis for the determination as specified in paragraphs (b)(7)(i)(A) through (b)(7)(i)(C) of this section.

(A) The owner or operator shall identify all HAP emission points at the plant site, including those emission points subject to and emission points not subject to subparts F, G, and H of this part;

(B) The owner or operator shall calculate the amount of annual HAP emissions that have been released from each emission point, using acceptable measurement or estimating techniques for maximum operating conditions at the site. Examples of estimating procedures that are considered acceptable include the calculation procedures in § 63.150 of subpart G, the early reduction demonstration procedures specified in § 63.74 (c)(2), (c)(3), (d)(2), (d)(3), and (g), or, for sources not covered by these procedures, accepted engineering practices.

(C) The owner or operator shall sum the amount of annual HAP emissions from all the emission points on the plant site. If the total emissions of any one HAP are less than 10 tons per year and the total emissions of any combination of HAP are less than 25 tons per year, the plant site qualifies for the exemption described in paragraph (b)(7) of this section, provided that emissions are kept below these thresholds.

(ii) If such a determination is based on limitations and conditions that are federally enforceable, and the plant site is not a major source as defined in subpart A of this part), the owner or operator is not subject to the recordkeeping requirement in § 63.190(8).

* * * * *

5. Section 63.192 is amended by adding a new paragraph (l) to read as follows:

§ 63.192 Standard.

* * * * *

(l) To qualify for the exemption specified in § 63.190(b)(7), the owner or operator shall maintain the documentation of the information required pursuant to § 63.190(b)(7)(i), and documentation of any update of this information requested by the Administrator, and shall provide the documentation to the Administrator upon request. The Administrator will notify the owner or operator, after reviewing such documentation, whether, in the Administrator's judgment, the source does not qualify for the exemption specified in § 63.190(b)(7). The exemption provided for in § 63.190(b)(7) will expire 90 days after the date of such notification by the Administrator.

[FR Doc. 94–25741 Filed 10–21–94; 8:45 am]
BILLING CODE 6560–50–P

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40 CFR Part 63

[AD–FRL–5092–3]

National Emission Standards for Hazardous Air Pollutants for Source Categories; Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed amendments.

SUMMARY: In the Rules Section of today's **Federal Register**, EPA is announcing a partial 3-month stay and reconsideration of the "National Emission Standards for Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry and Other Processes Subject to the Negotiated Regulation for Equipment Leaks" 59 FR 19402 (April 22, 1994) and 59 FR 29196 (June 6, 1994) (collectively known as the "hazardous organics NESHAP" or the "HON"). The EPA is issuing the stay pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7606(d)(7)(B), which provides the Administrator authority to stay the effectiveness of a rule during reconsideration. This administrative stay applies only to those source owners or operators who make a representation in writing to the Administrator that the resolution of the area source definition issues could affect whether the facility is subject to the HON.

This notice proposes, pursuant to Clean Air Act section 301(a)(1), 42 U.S.C. 7601(a)(1), to temporarily extend the applicable compliance dates for sources subject to the stay, but only as necessary to complete reconsideration (including appropriate regulatory action) of the rule in question. Pursuant to the rulemaking procedures set forth in the Clean Air Act section 307(d), 42

U.S.C. 7607(d), EPA hereby requests public comment on this proposed short-term compliance extension. A short-term extension of this nature is well within the 3-year period allowed by the Act.

DATES: *Comments.* Comments must be received on or before November 23, 1994.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than November 23, 1994. If a hearing is held, it will take place on December 5, 1994 beginning at 10 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air Docket (LE–131), Attention Docket Number A–90–19 (see docket section below), room M–6102, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Theresa Adkins, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5645.

Docket. All information used in the development of this proposal is contained in the preamble below. However, Dockets No. A–90–19 through A–90–23, and A–89–10, containing the supporting information for the original NESHAP, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room M–1500, first floor, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Smith at (919) 541–4718, Emission Standards Division (MD–13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: In the Rules Section of today's **Federal Register** EPA announced that, pursuant to Clean Air Act section 307(d)(7)(B), it is reconsidering certain portions of the HON rule. Readers should refer to that notice for a complete discussion of the background and rule affected. In that notice EPA also announced a 3-month stay of that rule during reconsideration. However, EPA may not be able to complete reconsideration of, and any appropriate curative regulatory action to, the rule within the 3-month period expressly provided by Clean Air Act section 307(d)(7)(B). If EPA does not complete the reconsideration and rulemaking in this timeframe then it will be necessary to temporarily extend the applicable compliance dates until EPA completes final rulemaking action upon reconsideration. By this action EPA proposes a temporary extension of the compliance dates beyond the 3-months provided, only as necessary to complete reconsideration and revision of the rule in question. If, following consideration of public comment, EPA takes final action to extend these compliance dates, the dates would be extended until the effective date of EPA's final action following reconsideration of these rules.

The EPA is proposing this temporary extension of the compliance dates in order to complete reconsideration of the rule, as discussed above. The EPA intends to complete its reconsideration of the rule and, following the notice and comment procedures of section 307(d) of the Clean Air Act, take appropriate action as expeditiously as practicable. If the reconsideration results in amendment of the applicability provisions of the HON, the applicable compliance dates would be extended to the date sources are required to comply with such amended requirements. Elsewhere in today's **Federal Register** EPA is proposing amendments to the HON to respond to the request for reconsideration. That proposal would allow certain sources to defer compliance with the HON under certain circumstances. The EPA will seek to ensure that the affected parties are not unduly prejudiced by the EPA's reconsideration.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small business entities.

Dated: October 11, 1994.

Carol M. Browner,

Administrator.

[FR Doc. 94–25740 Filed 10–21–94; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 85

[FRL–5095–2]

Notice of Data Availability Concerning Supplemental Rulemaking on Ozone Transport Commission; Emission Vehicle Program for the Northeast Ozone Transport Region

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Data Availability.

SUMMARY: On February 10, 1994, the Northeast Ozone Transport Commission (OTC) submitted a recommendation to EPA under section 184 of the Clean Air Act (the Act), for additional control measures to be applied throughout the Northeast Ozone Transport Region (OTR). Specifically, the OTC recommended that EPA require all state members of the OTC to adopt an Ozone Transport Commission Low Emission Vehicle (OTC LEV or LEV) program.

In today's notice of data availability, EPA is noticing additional information regarding 49-state alternatives which have been suggested during the course of the OTC/LEV petition process. This is the additional information EPA referenced in its Supplemental Notice of Proposed Rulemaking which was published in the **Federal Register** on September 22, 1994.

DATES: Written comments on the specific issues discussed in this document will be accepted until November 1, 1994. Please note, however, that the public comment period for all other issues in this rulemaking closes on October 24, 1994. Please direct all correspondence to the address specified below.

ADDRESSES: Written comments should be submitted (in duplicate if possible) to the Air Docket (see address below). Copies of information relevant to this matter are available for inspection in public docket A–94–11 at the Air Docket (LE–131) of the EPA, room M–1500, 401 M Street SW, Washington, D.C. 20460, tel. (202) 260–7548, between the hours of 8:00 am to 4:00 pm, on Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mike Shields, Office of Mobile Sources, U.S. EPA, 401 M Street, S.W., Washington, D.C. 20460, tel. (202) 260–3450.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 184 of the Clean Air Act, the Northeast Ozone Transport Commission (OTC) recommended that EPA require all state members of the OTC to adopt an Ozone Transport Commission Low Emission Vehicle (OTC LEV) program. On September 22, 1994, EPA published a supplemental notice of proposed rulemaking (SNPRM) proposing to find that reduction of new motor vehicle emissions through OTC LEV or a LEV-equivalent program [1] is

[1] A "LEV-equivalent program" was defined as an alternative voluntary federal program that would achieve emission reductions from new motor vehicles in the Northeast Ozone Transport Region equivalent to or greater than would be achieved by the OTC LEV program.

necessary to mitigate the effects of pollution transport and to bring nonattainment areas in the Northeast Ozone Transport Region ("OTR") into attainment and to avoid interference with maintenance. 59 FR 48664. EPA had previously published a notice announcing receipt of the OTC's recommendation, 59 FR 12914 (March 18, 1994), and a notice of proposed rulemaking (NPRM) on the OTC recommendation, 59 FR 21720 (April 26, 1994).

Today's notice and its appendices provide information that has been submitted to or developed by EPA after the SNPRM was signed. EPA determined that additional public notice to make the public aware of this additional information would be beneficial. EPA asks the public to focus their comments on the key areas discussed below. Comments filed after October 24, 1994, on topics addressed in previous notices (and not discussed below) will be treated as late comments to which EPA is not required to respond. The issues to be addressed are the following: (1) The alternative voluntary federal program proposed by the American Automobile Manufacturers Association; (2) the relevance of this proposal and other 49-state motor vehicle programs to EPA's final action on the OTC recommendation; (3) comparisons of the emission reductions from new motor vehicles in the OTR achieved under OTC LEV with those achieved under the automobile industry's proposal or under other 49-state motor vehicle programs; (4) the effects on emission reductions due to the migration of vehicles into the OTR from non-OTR states; and (5) the effect on OTR boundary conditions of a 49-state motor vehicle program. Commenters should be aware that before a 49-state motor vehicle program could be adopted by EPA, EPA would be required to provide the public with additional opportunities for comment on the specifics of such a program.

II. Discussion

A. American Automobile Manufacturers Association's Proposal of a 49-State Low Emission Vehicle Program

The American Automobile Manufacturers Association (AAMA) has recently submitted a description of its proposed 49-state low emission vehicle ("49SLEV") program. AAMA believes that its proposed program meets the test for a "LEV-equivalent" program that EPA proposed in the SNPRM. AAMA's description of its program is republished as Appendix A to this notice. To support its claim, AAMA relies on information developed by its consultant, Thomas L. Darlington, Air Improvement Resources, Inc. This information was presented at the September 30, 1994 meeting of the Subcommittee on Mobile Source Emissions and Air Quality in the Northeast States of the Clean Air Act Advisory Committee. The slides from that presentation are republished as Appendix B. Further information from Mr. Darlington is available in the docket for this rulemaking. EPA requests comments on AAMA's proposed program and its supporting analysis.

B. Additional EPA Modeling Information Regarding Emission Reductions From OTC LEV and Alternative Nationwide Program for New Motor Vehicles

EPA has prepared a simple analysis comparing emission reductions from the OTC LEV program to those from a specified nationwide program. The analysis was presented to the Mobile source Subcommittee at its September 30, 1994 meeting. A draft staff report explaining EPA's analysis is republished in Appendix C. A discussion of a nationwide program's effect on the boundary conditions of the OTR states is in Appendix D. EPA requests comments on these analysis.

C. OTC Critique of Modeling Information Comparing OTC LEV and Alternative Nationwide Program for New Motor Vehicles

The OTC has also prepared modeling information comparing OTC LEV and an alternative nationwide program for controlling new motor vehicles and has critiqued the modeling done by AAMA and by EPA. In Appendix E to this notice, EPA is republishing the slides from the presentation of this information at the September 30, 1994, meeting of the Subcommittee on Mobile Source Emissions and Air Quality in the Northeast States of the Clean Air Act Advisory Committee.

Dated: October 17, 1994.

Carol M. Browner,

Administrator.

Appendix A

A description of the American Automobile Manufacturer Association's (AAMA) 49-State Alternative Proposal with Related Background Information sent in a letter of October 11, 1994 to Carol M. Browner, Administrator, Environmental Protection Agency from Jerry Esper, Director, Vehicle Environment Department, AAMA, Washington D.C.

October 11, 1994.

Ms. Carol Browner,

Administrator, Environmental Protection Agency, Room W1200, Waterside Mall, 401 M Street, S.W., Washington, DC 20005.

Dear Administrator Browner: Pursuant to the Environmental Protection Agency Supplemental Notice of Proposed Rulemaking on Ozone Transport Commission: Emission Vehicle Program for the Northeast Ozone Transport Region (September 22, 1994 **Federal Register**, page 48662), attached is a detailed description of the American Automobile Manufacturers Association's 49-state alternative proposal with related background information. We request that this additional information be published in the **Federal Register** as part of the AAMA proposal as soon as possible. We are submitting this as a partial response to the SNPRM but are concerned that the October 24, 1994 filing deadline will not give adequate time for EPA and the public to fully consider this information.

Sincerely,

Jerry Esper,

Director, Vehicle Environment Department.

Technical Program Description 49-State Alternative to OTC LEV

A supplemental notice of proposed rulemaking published on Sept. 22, 1994 indicated that EPA proposed to find that the low-emission vehicle ("LEV") program recommended by the Northeast Regional Ozone Transport Commission ("OTC") or an alternative "LEV-equivalent program" would be necessary to achieve the national ambient air quality standards ("NAAQSs") for ozone, and for other purposes, in the Ozone Transport Commission region ("OTR"). The SNPRM defines "a LEV-equivalent program" as "an alternative voluntary federal program that would achieve emissions reductions from new motor vehicles in the OTR equivalent to or greater than would be achieved by the OTC LEV program." See 59 FR 48,664, 48,667 n.2.

This memorandum describes the 49-State low-emission vehicle ("49SLEV") alternative program, which meets the test for a "LEV-equivalent" program established in EPA's recent SNPRM. The 49SLEV program would provide reductions in ozone-forming emissions from the federal Tier 1 level that are equivalent to, or greater than, a combination of (1) the OTC-recommended program in the OTR jurisdictions and (2) the sale and use of zero-emission vehicles ("ZEVs") in the OTR in the same volumes mandated in California.

Statutory and Regulatory Background

EPA promulgated its mandatory Tier 1 regulations for gasoline-powered light-

duty vehicles and light-duty trucks in 1991. See 56 FR 25,724 (June 5, 1991). Title II of the Clean Air Act Amendments of 1990 precluded EPA from adopting or enforcing mandatory new motor vehicle exhaust emissions standards under section 202(a) of the Act that would be more stringent than the Tier 1 standards for gasoline-powered vehicles in those weight classes prior to MY 2004. See 42 U.S.C. 7521(b)(1)(C), (i). The limitations contained in the 1990 Amendments therefore effectively require any eligible State that seeks light-duty vehicle or light-duty truck emissions reductions more stringent than those contained in Title II prior to MY 2004 to adopt the California State standards under section 177 of the Clean Air Act. See 42 U.S.C. 7507.

Two States (New York and Massachusetts) have already begun to enforce some of the California State standards under section 177. The primary proposal under consideration in this docket is a more comprehensive proposal to require all jurisdictions in the OTR to adopt and enforce the California State standards under section 177. See 59 FR 21,720, 21,737–38 (Apr. 26, 1994). These efforts to adopt the California program are based on a belief among some of the States in the OTR that more stringent vehicle standards than the Tier 1 limits are necessary in the OTR. See 59 FR at 48,671–90.

Data provided to EPA indicate that vehicles registered outside the OTR generate a substantial percentage of vehicle miles travelled ("VMT") in the OTR during summer months. One portion of the VMT generated by non-LEV vehicles is caused by the "migration" of non-OTR vehicles into the OTR, as a result of permanent relocation of the owners of those vehicles from non-OTR States into OTR States. The balance of the non-OTC-controlled VMT within the OTR results from temporary business or personal travel by non-OTR vehicles inside the OTR. The analyses show that at least 6.5 percent of VMT in the OTR is generated by vehicles originally registered outside the OTR that permanently "migrate" into the OTR, and that an additional 4.1 percent of the VMT in the OTR results from temporary operation of non-OTC vehicles inside the OTR.

Neither the individual States in the Northeast, nor EPA acting under its authority in section 184 of the Clean Air Act, has much practical ability to control the generation of VMT inside the OTR by vehicles registered outside the OTR. Thus, even if the OTR States and EPA take all the steps allowed under the Clean Air Act to introduce the LEV program into the Northeast, that program will still not provide the same level of emissions control benefits as the State of California can claim for the LEV program in California. In the absence of some regulatory breakthrough, the problem of non-OTR-controlled VMT will continue until at least 2023, which is 20 years after a Tier 2 nationwide program might come into effect in MY 2004. (It is estimated that the in-use vehicle population in the Northeast would take about 20 years to "turn over," so that nearly all pre-MY 2004 vehicles would be off the road.) Whether this factor would actually be addressed beginning in MY 2004 depends upon whether EPA determines later in this decade to revisit the Tier 1 standards, and if so what new standards more stringent than the Tier 1 standards the Agency would adopt.

The 49-State LEV Alternative

The 49SLEV program would modify emissions control requirements for vehicle manufacturers in two stages. Initially, the program would require each manufacturer to sell a combination of LEVs and other vehicles in the OTC jurisdictions that would achieve equivalent or greater emissions reductions than the mix of vehicles it would have sold under OTC LEV program (which would go into effect in MY 1999 in the OTR). This aspect of the program will require the sale of substantial numbers of vehicles certified to the LEV standards adopted by California and using California test procedures and fuels, which are summarized in Table 1 below, beginning in MY 1999.

TABLE 1.—EXHAUST EMISSIONS STANDARDS FOR 49-STATE LEV PROGRAM

[Grams per mile]

	Durability basis	NMOG	CO	NO_x
LDV and LDT 1	50,000 mi	0.075	3.4	0.2
	100,000 mi ..	0.090	4.2	0.3
LDT 2	50,000 mi	0.100	4.4	0.4
	100,000 mi ..	0.130	5.5	0.5

Under the 49SLEV proposal, each manufacturer would be required to file annual reports with EPA demonstrating that the mix of vehicles it produced for sale in the OTR region in MY 1999 and 2000 met the equivalency test (which is described in the next section). Vehicles not certified to the LEV levels shown in Table 1 above would be required to meet the California "Tier 1", transitional low-emission vehicle ("TLEV"), ultra low-emission vehicle ("ULEV") or ZEV levels, which are published in 13 CCR § 1960.1(g)(1). Manufacturers that relied on the early introduction of TLEVs or other non-Tier 1 vehicles into the OTR before MY 1999 to meet the equivalency test would be required to file reports beginning the first year that credits would be earned towards the MY 1999 equivalence requirement.[2] The vehicles sold in the OTR under the 49SLEV program would be tested in accord with the California vehicle test procedures (including test fuel specifications). See 13 CCR 1960.1(g)(1). The California State enhanced evaporative emissions standards and onboard diagnostics control regulations (which are currently subject to review at EPA under section 209 of the Clean Air Act) would apply to these vehicles as well.

The second stage of the 49SLEV program would take effect in MY 2001, when all new passenger cars and light-duty trucks sold outside California would be required to meet the LEV standards summarized in Table 1. In that manner the 49SLEV program would provide for new motor vehicle emissions reductions beyond the Tier 1 level on a nationwide basis. It would do so before such a step would be possible under Title II of the Clean Air Act, and without the need for any State action under section 177. This would mean that all the MY 2001 and later model-year VMT within the OTR—generated

[2] The reporting requirements would be based on those contained in the amendments to Part 86 in EPA's 1991 Tier 1 Final Rule. See, *e.g.*, 40 CFR 86.094–8 (1993).

by vehicles registered both inside and outside the OTR—would meet LEV levels. Such an approach would be beneficial not only in the OTR jurisdictions, but also any ozone nonattainment area outside California.[3]

Assuring Equivalent Emissions Control

EPA's supplemental notice published on September 22 contemplated that any LEV-equivalent program would be accompanied by a simple means by which the States and EPA could assure that regionwide emissions reductions from the Tier 1 baseline would be at least as great, under the alternative program, as under the OTC LEV program. See 59 FR at 48,667 n.2, quoted at p. 1 above. That general requirement in turn must be translated into a specific compliance protocol that a given manufacturer can implement in its own production plans.

To meet that requirement, the 49SLEV proposal includes a specific new-vehicle phase-in schedule for light-duty vehicle and light-duty truck (under 3,750 lbs. GVWR) LEVs and TLEVs in the OTR that would meet or overachieve the requirement of equivalency. That phase-in schedule begins the introduction of TLEVs in MY 1997 in order to generate credits in time for the MY 1999 equivalence demonstration, and would result in a sales-weighted OTR fleet NMOG averages for LDVs and LDTs under 3,750 GVWR as follows: 0.20 g/mi. NMOG in MYs 1997–1998, 0.148 g/mi. NMOG in MY 1999, and 0.095 g/mi. NMOG in MY 2000. The OTR fleet NMOG level achieved in MY 2001, the first year of the 100 percent LEV requirement, would be 0.075 g/mi. NMOG.[4] Such a phase-in schedule for TLEVs and LEVs in the OTR would be "LEV-equivalent" within the meaning of the SNPRM published last month, when the migration benefits of the non-OTC LEV vehicle for 2001 and later model years are considered. This point is confirmed in EPA's emissions factor analysis published on September 30, 1994.

[3] The 49SLEV proposal would affect the boundary conditions required for standards attainment or maintenance modeling in some OTR domains. If all MY 2001 and later VMT in the regions adjacent to the OTR (such as the Virginia Tidewater and Piedmont and the Ohio Valley) were controlled to LEV (rather than Tier 1) levels, urban areas inside the OTR should consider whether their UAM modeling should use lower VOC or NO_x boundary conditions under a 49SLEV scenario than under an OTC LEV scenario.

[4] The 49SLEV program would also permit the carryforward, carryback and trading of NMOG credits, but any NMOG deficit in the OTR would have to be retired by the end of MY 2001.

Fuels-Related Considerations

The 49SLEV program would not require the use of commercial gasolines different from those anticipated in the Northeast and other non-California jurisdictions under current law and regulations. Like any other vehicle equipped with LEV hardware, vehicles certified under the 49SLEV proposal would be expected to pass the standards applicable to LEVs when operated on their certification fuel, which in most cases is expected to be California "Phase 2" reformulated gasoline. That gasoline will have strictly controlled sulfur levels, and will be commercially available in California in 1996. Vehicle manufacturers are expected to rely on the clean performance characteristics of that gasoline, particularly as emissions standards become more stringent in California.

The current California State regulations for onboard diagnostics controls (the "ODB II regulations") applicable to MY 1999 and later LEVs are currently under revision by the CARB staff, and those revisions are not expected to receive final approval under California law for several more months. Following final action in California, the revised OBD II regulations would also require EPA review under section 209(b) of the Clean Air Act. See 42 U.S.C. 7543(b). California LEV vehicles designed to meet the revised version of the CARB ODB II regulations are at substantial risk of falsely illuminating their malfunction indicator lights ("MILs") when routinely operated on non-California gasolines with unknown sulfur levels. (A MIL illumination should be considered "false" when it results from gasoline composition rather than the failure of an emissions component.)

In addition, data from recent test programs demonstrate that some LEVs routinely operated on gasolines with sulfur levels higher than those allowed in California will fail in-use compliance tests and, when operated on high-sulfur fuels, will not be able to meet so-called "maximum" inspection/maintenance ("I/M") cutpoints set at 1.5 times the LEV certification standards. For those reasons, vehicles produced for the 49SLEV program might require OBD II MIL illumination criteria and I/M test procedures cutpoints that would take account of non-California fuel quality. In addition, vehicles produced for the 49SLEV program and registered outside California would receive additional in-use test preconditioning and any special maintenance required to take account of the differences between California commercial fuels and those available elsewhere. The hardware used on the 49SLEV vehicles sold outside California would be identical with the hardware on California LEVs in the same model year.

Enforcement

Participants in the OTC LEV rulemaking have met regularly with the States, the EPA staff and others to develop mechanisms to enforce the obligations involved in the 49SLEV proposal described above. Some proponents of the 49SLEV program have proposed to enforce its program through a consent decree that would include all vehicle manufacturers in the U.S. market. The EPA staff has also developed a plan to promulgate voluntary regulations based on the 49SLEV proposal on an expedited basis. There is general agreement that if the States and EPA want the 49SLEV program to go forward, a satisfactory enforcement mechanism can be developed, based on the work done to date.

Appendix B

Republished slides from the presentation of this information by Thomas Darlington, Air Improvement Resources Inc., representing AAMA at the September 30, 1994, meeting of the Subcommittee on Mobile Source Emissions and Air Quality in the Northeast States of the Clean Air Act Advisory Committee.

COMPARISON OF 49-STATE ALTERNATIVE
TO OTC LEV PROGRAM
PRESENTATION TO
SUBCOMMITTEE ON MOBILE
SOURCE EMISSIONS AND AIR
QUALITY IN THE
NORTHEAST STATES
September 30, 1994
Washington, D.C.
Tom Darlington
Air Improvement Resource
(810–380–3140)

OVERVIEW

- INDUSTRY 49-STATE ALTERNATIVE
- MIGRATION
  - PERMANENT
  - TOURISM
- INVENTORY ANALYSIS
  - 49-STATE
  - OTC LEV (+ZEV)

INDUSTRY 49-STATE ALTERNATIVE

INTENDED TO:

1. Match VOC and NO_x benefits of OTC LEV (+ZEV) in OTR. (It does this.)
2. Provide significant mobile source benefits to rest of nation.
3. Do so in a cost effective manner.

KEY ELEMENTS

CA LEV Vehicle
CA OBD2 hardware
Phased-in 30/60/100 starting in 1999 in OTR
Available 100% in rest of nation in 2001
TLEV's prior to 1999 to match OTC LEV + ZEV, corrected for migration effects

MIGRATION

Two Types of Migration
Permanent
Temporary (Vacation + Business): Tourism
Both affect 49-state and OTC LEV, but to varying degrees. Affects OTC LEV more than 49-State Alternative

PERMANENT MIGRATION

Bureau of Census Data 1985–90
People are a surrogate for vehicle migration
Estimate of Permanent Migration
Fleet Fraction: 6.5%
EPA: 7.25%
Independent Data Sources
Different Techniques
Same Answer
E.H. Pechan Review of 6.5%
Probably underestimates permanent migration due to moves less than 5 years

TEMPORARY MIGRATION

U.S. Travel Data Center
Summary of Trips from One Region to Another
Estimated VMT Fraction: 4.1%
E.H. Pechan Review:
Washington COG: 4% in 1990, 5% in 2010
Delaware Regional Planning Commission. 5%

MODELING RUNS

- Assumes enforceability of 49-State Alternative
- CA OBD2 on 49-state vehicles with I/M program that meets EPA April 8 criteria
  - I/M 240
  - Audit program
  - Backstops
- OTC LEV case includes benefits of ZEV's with and without power plant effects
- Other Assumptions
  - Fed Reform
  - Stage II
  - Onboard vapor recovery

POWER PLANT EFFECTS

- Based on Sierra Research Report
- Assumes Phase 2 controls
  - New England
  - Mid Atlantic (except Pennsylvania)
  - Vehicle power=0.37 Kwh/mi
- Average emission rates
  - NO_X=0.32 g/mi
  - VOC=0.015 g/mi
- Comparison with NESCAUM 1992 analysis
  - NO_X=0.12–0.15 g/mi

EMISSION INVENTORY COMPARISON

Difference in Emissions, OTC LEV minus 49 State
Permanent Migration 6.5%
Tourism 4.1%
Includes power plant emissions

CYR	VOC		NO_X	
	TPD	%	TPD	%
1996	−0.3	0	−0.08	0
1999	4.1	<1	−3.0	<1
2002	8.5	<1	−5.0	<1
2005	7.0	<1	11.6	1.0
2007	10.8	1.5	34.6	3.5
2010	10.6	1.9	50.1	6.4
2015	11.7	2.5	82.4	13.6

Positive values indicate 49-State Alternative lower.

SENSITIVITY ANALYSIS WITHOUT POWER PLANT EFFECTS

Difference in Emissions, OTC LEV minus 49 State

CYR	VOC		NO_X	
	TPD	%	TPD	%
1996	−0.3	<1	0	0
1999	4.0	<1	−3.9	<1
2002	8.3	<1	−9.9	<1
2005	6.2	<1	−3.9	<1
2007	9.7	1.3	11.7	1.2
2010	9.1	1.6	18.3	2.3
2015	9.7	2.1	41.2	6.8

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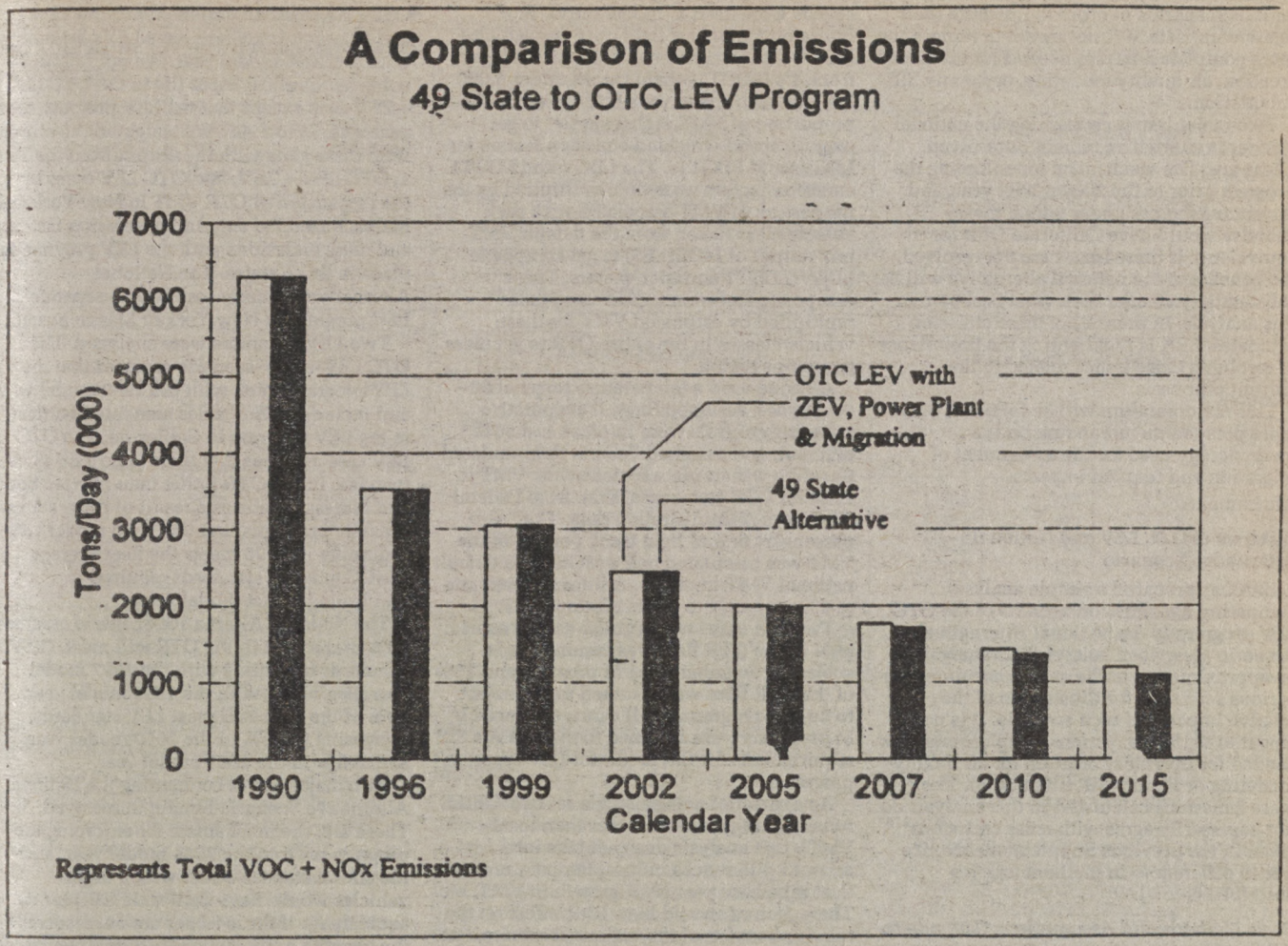

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COMPARISION WITH EPA AND STATE ANALYSES

Item	Air	EPA	State
1. Enhanced I/M in OTR	100%	85%	100%
2. I/M of Tourism Vehicles	Blend of Enhanced, Basic, None	No I/M	Blend of Enhanced, Basic, None.
3. Power plant effects	Both ways	No	No.
4. OBD of 49-State	CA OBD2	CA OBD2	Fed OBD.
5. Migration Rates			
Permanent	6.5%	7.25%	7.25%*
Tourism	4.1%	4.1%	4.1%*

*Still evaluating against vehicle registration data.

CONCLUSIONS

1. 49-State Alternative results in equivalent VOC and NO_X emission reductions to OTC LEV program with ZEV benefits in Northeast when migration taken into account.
2. 49-State proposal results in significant nationwide benefits of VOC and NO_X.

Appendix C

Draft EPA staff report comparing the emissions benefits of the OTC LEV program to those from a 49-State motor vehicle program.

Memorandum

Subject: Update of Emissions Estimates for OTC/LEV and National LEV Programs in the Ozone Transport Region.

From: Office of Mobile Sources.

To: Subcommittee and Work Group Members on Mobile Source Emissions and Air Quality in the Northeast States.

On July 12, 1994 the EPA Office of Mobile Sources (OMS) released a memorandum providing emission estimates for the Ozone Transport Commission OTC LEV Program and several scenarios related to an alternative program of national standards. Since then, these alternative standard proposals have changed and OMS has worked to refine the original analysis to incorporate some of the issues raised in response to its release.

The process of refining the analysis is not necessarily complete, and further analysis will be needed if there are changes in the proposed alternatives to the OTC LEV program. However, the attached tables give EPA's current best estimates of the emissions benefits of the various programs given the specific assumptions detailed in the attachment. This analysis is an

approximation of the emissions under the various scenarios in order to illustrate their relative impacts. It is not meant to replace the more complete analyses needed for inventory creation, air quality modeling, or for any SIP submission.

Two major issues concerning the national standards alternative remain unresolved. These are: The mechanism for enforcing the program prior to the 2004 model year, and the circumstances under which these vehicles would have California OBD (or its equivalent). If these issues are not resolved, the benefits of the national alternative will be substantially smaller than what is shown in this analysis. In presenting these emission estimates. EPA is highlighting the importance of resolving these issues related to the current proposals.

This memorandum will be followed by a more detailed memorandum on the methodology used for the assessment of migration and tourism impacts.

Attachments

Analysis of OTC LEV and National Alternative Scenario

EPA has prepared a simple analysis comparing the emission benefits of the OTC LEV program to the National Alternative Scenario (described below). This analysis is an approximation of the emissions under the various scenarios for illustration of the relative impacts of each scenario. It is not meant to replace any more complete analyses needed for inventory creation for air quality modeling or for any SIP submission. The mass emissions calculated in this analysis do not necessarily agree with mass emissions given in the previous Supplemental Notice due to differences in methodology (as described below).

Basic Methods and Assumptions Common to All Scenarios

This analysis was done using MOBILE5a–AAMA PROPOSAL, the special version of MOBILE5a created Nov. 15, 1993 to analyze the FedLEV proposal. The only difference between MOBILE5a and MOBILE5a–AAMA PROPOSAL is that the latter model includes some features which simplify the modeling of variations of the California LEV program.

MOBILE runs using three different vehicle speeds were used to model the OTR. Emission factors for light duty gas vehicles (LDGV—passenger cars) and light duty gas truck 1's (LDGT1—light trucks under 6,000 lbs.) for each speed were multiplied by the proportion of VMT at that speed[5] to get overall, speed-weighted emission factors for LDGVs and LDGT1s. The LDGV and LDGT1 emission factors were then multiplied by the proportion of VMT associated with each vehicle class (taken from the default VMT mix output of MOBILE5) to get composite LDGV/LDGT1 emission factors. These composite emission factors were then multiplied by estimated VMT for these vehicle classes in the entire OTR to get mass emissions results.

All runs used a temperature range of 66–95 degrees, assumed Stage II evaporative refueling controls were in place and 80% efficient, and assumed Federal Reformulated Gasoline was in place region-wide. VMT in 1990 for OTR states was taken from Federal Highways Administration data. The passenger car and light truck portion of the VMT was calculated using MOBILE5a default national VMT fractions. A linear growth rate of 2% was used to project future VMT.

Two I/M cases were run for each scenario: 85% of the OTR fleet was assumed to be subject to an enhanced I/M program and 15% of the OTR fleet was assumed to be subject to no I/M program. In all cases, enhanced I/M programs were assumed to meet EPA's SIP requirements for full credit for LEV type programs.[6]

As a result of using a single set of MOBILE runs (and region-wide rather than local VMT), this analysis does not take into account differences in local temperatures, fleet mix, base year RVP, growth in VMT, etc. These factors should have little effect on the relative benefits of the various scenarios, but would have an effect on the absolute emission factors or mass emissions in different parts of the OTR.

Scenario-Specific Methods and Assumptions

New York and Massachusetts have both passed legislation mandating the LEV program, which could remain in place regardless of EPA action on the OTC LEV petition. The Tier 1, OTC LEV + ZEV, and OTC LEV cases all assume that New York and Massachusetts will have LEVs beginning with the 1996 model year. We ran MOBILE5 using an identical input file to the OTC LEV + ZEV case except that the LEV program start year was set to 1996. We weighted the output from these runs with the output from the Tier 1, OTC LEV + ZEV, and OTC LEV cases by the proportion of OTR VMT in New York and Massachusetts to determine emission factors and mass emissions with the LEV program in place in those states. The National Alternative Scenario assumes no separate LEV program in New York or Massachusetts.

Two LEV scenarios were analyzed. The OTC LEV + ZEV scenario assumes that the LEV program starts with the 1999 model year and includes a ZEV sales mandate identical to the LEV program in California. The OTC LEV case assumes that there is no ZEV sales mandate in the OTR (other than in New York and Massachusetts as a result of those states separate programs) but that each model year beginning in 1999 meets the fleet average NMOG exhaust standards required in California for that model year.

The National Alternative Scenario assumes 40% of the fleet in the OTR will meet TLEV standards beginning with the 1997 model year. Beginning with the 1999 model year, 30% of the fleet will meet LEV standards, increasing to 60% in the 2000 model year, and 100% in the 2001 model year.

Two major issues concerning the National Alternative Scenario remain unresolved. These are: the mechanism for enforcing the program prior to the 2004 model year, and the circumstances under which these vehicles would have California OBD (or its equivalent). If these issues are not resolved, the benefits of the national alternative will be substantially smaller than what is shown in this analysis. In presenting these emission estimates, EPA is highlighting the importance of resolving these issues related to the current proposals.

The emission impacts of these scenarios (without the impacts of migration or tourism) are shown in Table 1 below.

TABLE 1.—EMISSION ESTIMATES FOR PASSENGER CARS AND LIGHT-DUTY TRUCKS (< 6000 LBS.) IN THE OTR, NOT ACCOUNTING FOR PERMANENT MIGRATION AND TEMPORARY VISITATION BY VEHICLES FROM OUTSIDE THE OTR.

Year	VOC emissions (g/mi)				NO_X emissions (g/mi)			
	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario
1990	4.33	4.33	4.33	4.33	1.88	1.88	1.88	1.88
1996	1.56	1.56	1.56	1.56	1.56	1.56	1.56	1.56
1999	1.26	1.26	1.26	1.25	1.34	1.33	1.33	1.33
2002	0.92	0.88	0.88	0.88	1.17	1.11	1.11	1.12
2005	0.78	0.69	0.69	0.69	1.05	0.89	0.89	0.91
2007	0.71	0.59	0.60	0.60	0.99	0.77	0.77	0.78

[5] 5 Speeds and VMT weights are from "Adopting the California Low Emissions Vehicle Program in the Northeast States—An Evaluation", September 1991, prepared for NESCAUM by E.H. Pechan & Associates and Energy and Environmental Analysis.

[6] These requirements are specified in "Emission Reduction Credits for California Low Emission Vehicles (LEVs)", memorandum from Phil Lorang to Regional Air Division Directors, April 8, 1994. This memo specified enhanced I/M performance standard cutpoints of 0.6 g/mi THC, 10 g/mi CO, and 1.2 g/mi NO_X for vehicles with emissions standards beyond Tier 1.

TABLE 1.—EMISSION ESTIMATES FOR PASSENGER CARS AND LIGHT-DUTY TRUCKS (< 6000 LBS.) IN THE OTR, NOT ACCOUNTING FOR PERMANENT MIGRATION AND TEMPORARY VISITATION BY VEHICLES FROM OUTSIDE THE OTR.—Continued

Year	VOC emissions (g/mi)				NO_x emissions (g/mi)			
	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario
2010	0.64	0.47	0.48	0.49	0.91	0.60	0.61	0.63
2015	0.60	0.39	0.40	0.41	0.86	0.47	0.48	0.50

Year	VOC emissions (tons/day)				NO_x emissions (tons/day)			
	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario
1990	4,527	4,527	4,527	4,527	1,966	1,966	1,966	1,966
1996	1,809	1,809	1,809	1,810	1,809	1,809	1,809	1,809
1999	1,536	1,530	1,530	1,526	1,626	1,618	1,618	1,621
2002	1,165	1,117	1,119	1,115	1,490	1,407	1,409	1,424
2005	1,027	909	910	914	1,394	1,175	1,179	1,201
2007	971	807	812	817	1,346	1,041	1,052	1,062
2010	907	672	679	694	1,292	854	865	887
2015	897	585	596	623	1,297	706	724	747

Permanent Migration and Temporary Visitation Impacts on Emissions

Because the OTC LEV program will apply only to vehicles sold within the OTR, and because the National Alternative Scenario has a later start date outside the OTR, some increase in emissions will be associated with the permanent migration and temporary visitation of non-LEVs from other states into the OTR. The amount of excess emissions associated with migrating and visiting vehicles is dependent on two factor: the difference in emissions per vehicle between the fleet entering the OTR and the "native" fleet within the OTR, and the number of vehicles entering the OTR from outside.

The difference in emissions per vehicle between the fleet entering the OTR and the native fleet within the OTR is dependent on several factors, including the vehicle standard they are each certified to and the I/M program each is subject to. The difference in emissions due to differences in standards is larger in the OTC LEV case, where immigrant vehicles are assumed to be Federal Tier 1 vehicles, than in the National Alternative Scenario, where the only difference is that the start year of the program is delayed outside the OTR.

Vehicles that permanently migrate into the OTR will be subject to the same I/M program as vehicles originally sold in the OTR. However, vehicles that are temporarily visiting the OTR are subject to the I/M program in their home state. As a result, the emission factors associated with the fleet of vehicles that permanently migrates into the OTR will be different than the emission factors associated with the fleet of vehicles temporarily visiting the OTR, and the effects of permanent migration and temporary visitation must be calculated separately.

Methodology for Estimating the Amount of Permanent Migration of Motor Vehicles Into the OTR

There is no readily available source of information that allows direct estimates to be made of the vehicle population in the OTR that was originally sold outside the OTR. The ideal source of information would be a state-by-state vehicle registration database that includes the state of original sale for every motor vehicle. Such a database would allow direct estimation of the number of non-LEV vehicles in the OTR in future years. However, this kind of database does not currently exist for the OTR.

The next alternative source of information would be a state-by-state registration database that shows the percentage of newly registered vehicles in the OTR that entered the OTR from states outside the OTR in a one-year period. This kind of database would allow estimation of the annual migration rate of vehicles into the OTR. The individual states within the OTR may well have this information, however, EPA was unable to obtain such information in time for this analysis. We understand that the states are attempting to develop such a database. However, as discussed below, an annual migration rate is not enough by itself to estimate the number of non-LEV vehicles in the OTR in future years; to calculate the overall effect of migration on the fleet further analyses of the type described below would be needed.

In the absence of a comprehensive source of data on vehicle migration, we chose to use human population migration as a surrogate. There are two sources for state-to-state population migration data: the U.S. Bureau of the Census,[7] which includes questions about change in residency in the decennial census; and the U.S. Internal Revenue Service[8] (IRS), which maintains a database of changes in filing addresses for personal income tax returns.

The migration data collected by the Bureau of Census have one major drawback. The data are based on a census form question which asks respondents what state they lived in five years ago. Since multiple moves are not recognized by this kind of question, the census data tend to underestimate the actual rate of migration. For this analysis, that kind of underestimation can be a problem. For example, a resident of Ohio could move to New York for several years, then return to Ohio, and not be recognized as ever having lived in New York in the census database. However, if the Ohio resident brought a non-LEV vehicle with her when she moved to New York, that vehicle would contribute excess emissions to the New York inventory while it was there.

The migration data collected by the IRS allow the estimation of a true annual human migration rate from state-to-state. The IRS records the current year address and previous year address for all filers of individual income tax forms. Summaries of this database showing annual state-to-state (and even county-to-county) migration are available. The database shows both the number of individual tax returns and the number of exemptions claimed on those returns. Although this database does not include the portion of the population that does not file tax returns, the data on exemptions do give the best available estimates of annual state-to-state migration of human population.

The IRS state-to-state migration data for 1991 to 1992 indicate a human migration rate

[7] 1990 Selected Place of Birth and Migration Statistics for States, U.S. Bureau of Census.

[8] Statistics of Income Program, U.S. Internal Revenue Service.

of 1.03% of the OTR population into the OTR from non-OTR states other than California (i.e., in 1992, 1.03% of the OTR population lived in a non-OTR state, other than California, in the previous year). The same database also gives a 1.98% rate of out-migration for the same period.

For this analysis, we have assumed that the vehicle migration rate was equal to the human migration rate (i.e., that all people who move take their vehicles with them). Thus, this approach is likely to somewhat overestimate the vehicle migration rate since some people will probably choose to sell their vehicles before moving. On the other hand, if there is a significant difference in the cost of vehicles within the OTR, people moving into the OTR may be encouraged to keep their vehicles. Neither of these effects is quantifiable with the available information.

The number of non-LEV vehicles in the OTR in future years will depend not only on the annual rate of immigration of these vehicles into the OTR, but also on the rate at which these vehicles are scrapped and the rate at which they migrate back out of the OTR. To account for these factors, we constructed a simple model which estimates the percentage of immigrant vehicles for each model year in the fleet in any calendar year. The model uses the motor vehicle age distribution in MOBILE5a, which accounts for motor vehicle scrappage, as the basis for this calculation. The MOBILE5a motor vehicle age distribution is simply a table which indicates what percentage of vehicles in the fleet in a given calendar year are the current model year, one year old, two years old, etc. up to 25 years old. Motor vehicle scrappage is reflected in the table by the fact that the percentage of vehicles in the fleet decreases with age.

The model for determining the percentage of non-LEV vehicles in the OTR fleet works as follows:

1. The MOBILE5a age distribution is used to determine the number of vehicles of each of the past 25 model years in the fleet in any calendar year.

2. The annual migration rate (1.03%) is used to determine how many of those vehicles in each model year migrated in to the OTR in the past year. This number is subtracted from the total number of vehicles in each model year to determine how many vehicles in each model year did not migrate in the past year.

3. The annual migration rate (1.03%) is then applied to the number of vehicles that did not migrate in the past year to determine how many of those vehicles migrated in between one and two years ago. However, these vehicles have also had a year in which they could have migrated back out of the OTR, so the number of vehicles migrating in is adjusted by the out migration rate (i.e., 1.98% of the vehicles that migrated in between one and two years ago are assumed to have migrated back out of the OTR).

4. This process is repeated to estimate the vehicles that migrated in between two and three years ago, between three and four years ago, etc., all the way to the number of vehicles that migrated in between 24 and 25 years ago for each applicable model year. Since the out migration rate is an annual rate, the number of vehicles that migrated in any one year period is adjusted to reflect the number of years these vehicles could have migrated back out since that year (i.e., of the vehicles that migrated in between two and three years ago, 1.98% would have migrated back out between one and two years ago and another 1.98% would have migrated back out in the past year). Because this process incorporates the in migration rate, the out migration rate, and scrappage (as reflected in the age distribution of the fleet), the result is a table that estimates the number of vehicles remaining in the OTR fleet (after out migration and scrappage) that migrated in each year over a 25 year period.

5. The numbers of immigrant vehicles that migrated in each year over a 25 year period and still remain in the fleet can then be summed to estimate the total number of immigrant vehicles remaining in the fleet. Using the MOBILE5a age distribution, and the in and out migration rates calculated from the IRS data, we estimate that, in one calendar year, the number of vehicles in the OTR that were originally sold outside the OTR represents 7.25% of the OTR fleet.

This analysis does not reflect the likelihood that annual migration rates into and out of the OTR will change over time, nor does it reflect the potential for changes in the vehicle age distribution over time. Increases in immigration rates (and/or decreases in out migration rates) will tend to increase the number of immigrant vehicles in the OTR. The effect of changes in vehicle age distribution are less obvious. In the absence of more information, we have chosen to assume that these factors stay constant over time.

Calculation of the Emission Effects of Permanent Migration

The emission effects due to the permanent migration of vehicles from outside the OTR were calculated by combining the emission factors of the immigrant and native fleets assuming that the immigrant vehicles make up 7.25% of the total fleet. For the OTC LEV cases, the immigrant fleet emission factors were calculated assuming Tier 1 standards (85% with enhanced I/M, 15% with no I/M) while the native fleet emission factors were calculated assuming the OTC LEV programs as described above, including the separate programs in New York and Massachusetts (again assuming 85% with enhanced I/M, 15% with no I/M). For the National Alternative Scenario case, the immigrant fleet emission factors were calculated assuming full implementation of the LEV standard beginning in 2001 (with no phase-in or TLEV standards prior to that model year), while the native fleet emission factors were calculated assuming the TLEV standards starting in 1997, and LEV standards phasing in beginning in 1999, as described above. Both the immigrant and native fleets were assumed to be subjected to a mix of 85% enhanced I/M and 15% no I/M.

The results of the analysis of the permanent migration effects are given in Table 2 below. Permanent migration has a smaller effect on the National Alternative Scenario than it does on the OTC LEV cases, which results in a closing of the gap between these two programs. For VOC emissions, differences between the proposals with migration factored in are probably not significant. For NO_x emissions, the OTC LEV cases have lower emissions in the early years and higher emissions in later years, it is difficult to conclude whether the differences are significant given the number and types of assumptions made in this analysis.

TABLE 2.—EMISSION ESTIMATES FOR PASSENGER CARS AND LIGHT-DUTY TRUCKS (< 6000 LBS.) IN THE OTR, ACCOUNTING FOR PERMANENT MIGRATION BY VEHICLES FROM OUTSIDE THE OTR

Year	VOC emissions (g/mi)				NO_x emissions (g/mi)			
	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario
1990	4.33	4.33	4.33	4.33	1.88	1.88	1.88	1.88
1996	1.56	1.56	1.56	1.56	1.56	1.56	1.56	1.56
1999	1.26	1.26	1.26	1.25	1.34	1.33	1.33	1.33
2002	0.92	0.88	0.88	0.88	1.17	1.11	1.12	1.12
2005	0.78	0.70	0.70	0.69	1.05	0.91	0.91	0.91
2007	0.72	0.61	0.61	0.60	0.99	0.79	0.80	0.79
2010	0.65	0.49	0.50	0.49	0.92	0.64	0.65	0.63
2015	0.60	0.41	0.42	0.41	0.87	0.51	0.52	0.50

Year	VOC emissions (tons/day)				NO_X emissions (tons/day)			
	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario
1990	4,527	4,527	4,527	4,527	1,966	1,966	1,966	1,966
1996	1,809	1,809	1,809	1,810	1,809	1,809	1,809	1,809
1999	1,536	1,531	1,531	1,527	1,627	1,619	1,619	1,623
2002	1,168	1,123	1,125	1,119	1,491	1,417	1,419	1,430
2005	1,033	923	925	920	1,396	1,200	1,203	1,210
2007	978	827	831	822	1,349	1,075	1,085	1,070
2010	918	699	706	699	1,296	904	914	896
2015	911	621	631	624	1,302	773	789	750

Methodology for Estimating the Amount of Temporary Travel by Motor Vehicles From Outside the OTR

As in the case of permanent migration, there is no single comprehensive database that allows the direct calculation of the amount of VMT in the OTR associated with temporary visits (tourism and business travel) by vehicles from outside the OTR. For this analysis, we have adopted a method for estimating the amount of temporary travel in the OTR developed by Thomas L. Darlington.[9] This analysis relies on data from surveys conducted by the U.S. Travel Data Center, a private organization in Washington, DC.

In brief summary, Darlington's analysis takes the number of person-trips to the three east coast census regions from other census regions estimated from the travel surveys and apportions it to the OTR based on population. The number of person-trips into the OTR is then converted to vehicle trips, then to automobile and light truck trips, and then to summer-time automobile and light truck trips, all using information from the travel surveys. Trips are then converted to miles using an estimate of average mileage per trip from the survey data. Finally, Darlington assumes that half of that mileage occurs within the OTR, and uses that estimate to calculate the total numbers of miles per day in the OTR associated with tourism and business travel from outside the OTR. As a result of this analysis, Darlington estimates that 4.1% of VMT in the OTR is due to vehicles traveling within the OTR from outside the OTR.

Some of the individual states within the OTR may have better estimates of the amount of VMT associated with visitors, but the U.S. Travel Data Center surveys seem to be the best available source of this information for the whole region. The main weaknesses with this approach are in the calculation of the number of person-trips in the OTR and in the estimate of the mileage per trip in the OTR. Because the survey data are broken down by census regions, which do not correspond with OTR boundaries, some assumptions must be made to calculate the number of person-trips in the OTR. Darlington's approach was to apportion the number of person-trips in the South Atlantic Census Region by the proportion of the Census Region's population in the OTR. This approach is not unreasonable, but other approaches may be possible. Similarly, for converting person trips to miles, Darlington takes the average mileage per trip from the survey data and assumes that half of that mileage occurs with the OTR. Once again, this is not an unreasonable assumption, but other assumptions may be equally valid. Until further information on this kind of travel is obtained, we will rely on this approach to estimate the temporary visitation rate.

Calculation of the Emission Effects of Temporary Visitation

The emission effects due to the temporary visitation of vehicles from outside the OTR were calculated by combining the emission factors of the tourist and native fleets assuming that the tourist vehicles make up 4.1% of the total VMT. In all cases, the native fleet emission factors include the effects of permanent migration, as described above. For the OTC LEV cases, the tourist fleet emission factors were calculated assuming Tier 1 standards, with no I/M, while the native fleet emission factors were those calculated assuming the OTC LEV programs as described above, including the separate programs in New York and Massachusetts (again assuming 85% with enhanced I/M, 15% with no I/M) and including the effects of permanent migration. For the National Alternative Scenario case, the tourist fleet emission factors were calculated assuming full implementation of the LEV standard beginning in 2001 (with no phase-in or TLEV standards prior to that model year), but with no I/M, while the native fleet emission factors were calculated assuming the TLEV standards starting in 1997, and LEV standards phasing in beginning in 1999, as described above, but with a mix of 85% enhanced I/M and 15% no I/M (and including the effects of permanent migration).

The results of the analysis of the temporary visitation effects (along with the permanent migration effects) are given in Table 3 below. Incorporating these effects results in substantial increases in the emissions under all scenarios, but most of that increase is due to the effect of differences in I/M programs between the native and tourist fleets. In the absence of an enhanced I/M program (and the emission credits associated with the combination of the enhanced I/M program and California OBD), the differences between the tourist fleet in the OTC LEV cases and the tourist fleet in the National Alternative Scenario are much smaller, which results in a smaller difference in the impact of tourism in these two cases. This difference will be larger (i.e., the emissions increase due to tourism in the OTC LEV cases will increase relative to the National Alternative Scenario case) if some of the tourist vehicles are assumed to be subject to an enhanced I/M program. However, the percentage of vehicles subject to enhanced I/M outside the OTR is small, and should have little impact on these results. Therefore, conclusions about the relative benefits of these programs remain unchanged from the discussion of the effects of permanent migration. For VOC emissions, differences between the proposals with migration factored in are probably not significant. For NO_X emissions, the OTC LEV cases have lower emissions in the early years and higher emissions in later years, it is difficult to conclude whether the differences are significant given the number and types of assumptions made in this analysis.

[9] Impact of Migration and Power Plant Emissions on the Benefits of the OTC LEV Program Relative to the 49-State Alternative", AAMA, Thomas L. Darlington, Air Improvement Resource , Inc., October 1994.

TABLE 3.—EMISSION ESTIMATES FOR PASSENGER CARS AND LIGHT-DUTY TRUCKS (< 6000 LBS.) IN THE OTR, ACCOUNTING FOR PERMANENT MIGRATION AND TEMPORARY VISITATION BY VEHICLES FROM OUTSIDE THE OTR

Year	VOC emissions (g/mi)				NO_X emissions (g/mi)			
	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenario
1990	4.34	4.34	4.34	4.34	1.88	1.88	1.88	1.88
1996	1.57	1.57	1.57	1.58	1.57	1.57	1.57	1.57
1999	1.28	1.28	1.28	1.27	1.35	1.34	1.34	1.34
2002	0.94	0.90	0.90	0.90	1.19	1.13	1.13	1.14
2005	0.80	0.72	0.72	0.72	1.07	0.93	0.93	0.93
2007	0.74	0.63	0.64	0.63	1.01	0.82	0.82	0.81
2010	0.67	0.52	0.53	0.52	0.94	0.67	0.68	0.66
2015	0.63	0.44	0.45	0.44	0.89	0.55	0.56	0.53

Year	VOC emissions (tons/day)				NO_X emissions (tons/day)			
	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenarios	Tier 1	OTC LEV + ZEV	OTC LEV	National alternative scenarios
1990	4,536	4,536	4,536	4,536	1,967	1,967	1,967	1,967
1996	1,826	1,826	1,826	1,827	1,816	1,816	1,816	1,816
1999	1,559	1,554	1,554	1,550	1,639	1,632	1,632	1,635
2002	1,151	1,148	1,150	1,143	1,508	1,436	1,438	1,448
2005	1,059	954	955	949	1,418	1,229	1,233	1,235
2007	1,007	861	866	854	1,373	1,110	1,120	1,101
2010	949	739	746	736	1,324	948	958	936
2015	945	667	677	666	1,335	827	842	798

Appendix D

Draft EPA staff report on a 49-State vehicle program's effect on the Northeast Ozone Transport Region's boundary conditions.

Transport Benefits Associated With a 49-State Vehicle Program

EPA does not have a quantitative analysis that measures the transport benefits to the Ozone Transport Region (OTR) from emission reductions outside the OTR provided by a 49-State motor vehicle program. At the request of the Ozone Transport Commission (OTC), EPA has recently completed an analysis using the Regional Oxidant Model (ROM) to determine the ozone effects associated with control programs outside of the OTR. EPA modelled the impact by the year 2005 of including certain control strategies, including a .15 lbs/mmBtu emission rate for large stationary sources of NO_X emissions and the adoption of the LEV program, throughout the Eastern United States.

The results showed that the transport benefits to the OTR from adopting these control strategies outside the OTR can be significant. However, the analysis did not separate the LEV program from the .15 lbs/mmBtu NO_X stationary source program. From the sheer magnitude of the tons of pollution taken out of the air by the two programs, as well as the location of the large number of NO_X stationary sources in the Ohio River valley, it seems clear that the vast majority of transport benefits seen in the ROM analysis are the result of the .15 NO_X stationary source program. The transport benefits to the OTR associated with the LEV program are likely to be comparatively small.

According to analyses conducted by EPA's Office of Mobile Sources, the emission reductions associated with a LEV program are relatively small outside of those areas where an enhanced vehicle inspection and maintenance program is in place. Outside of the OTR, enhanced vehicle I/M programs will be in place in Chicago/Milwaukee/northern Indiana area, as well as areas like Houston, Texas, and Atlanta, Georgia. These programs will likely not be in place in Ohio, West Virginia, and other areas bordering the OTR. As a result, the benefits of the LEV program tend to be more localized to those areas with enhanced vehicle I/M, several hundred miles away from the OTR.

Since the ROM analysis modelled the effects of the various control strategies only through the year 2005, it seems likely that whatever transport benefits there are to the OTR from a nationwide LEV program will grow over time as the fleet turns over. However, in the near term, the transport benefits to the OTR from a nationwide LEV program will likely remain comparatively small.

Appendix E

Republished slides from the presentation of this information by John Elston, Administrator, New Jersey Department of Environmental Protection, representing the Ozone Transport Commission at the September 30, 1994, meeting of the Subcommittee on Mobile Source Emissions and Air Quality in the Northeast States of the Clean Air Act Advisory Committee.

Review of Assumptions in OTC's Analysis of Latest Manufacturers' Proposal

1. Enforcement of alternative voluntary national standards—Enforcement remains a key issue in analysis of any proposal from the auto manufacturers. A clear enforcement mechanism for the auto manufacturers' proposal (which starts in 1997) has not been defined, but the Clean Air Act does allow alternative standards to be enforced in 2004. Two cases (1997 and 2004) have therefore been run to show emissions under both enforcement scenarios.

2. On-Board Diagnostics—The OTC LEV program ensures that vehicles will be equipped with the OBD–2 system available on California LEV vehicles. The OBD–2 system is a critical and integral component of the LEV program that provides early detection and correction of excess and deteriorating emissions as well as synergistic emissions reductions when coupled with other vehicle emissions control programs such as inspection and maintenance programs. The auto manufacturers' proposal as prepared in August 1994 included California OBD contingent on an adjustment in sulfur levels in the nation's gasoline supply, an action that cannot be assumed.

Very recently, representatives of the auto manufacturers have suggested that perhaps there could be other approaches besides a nationwide fuel supply modification. There have been suggestions that OBD and I/M cutpoints could be raised, actions which can be anticipated to raise emissions of motor vehicles. Thus, because the auto manufacturers have not indicated how California OBD would operate in their proposal to attain the full emission

reductions attainable, this analysis assumes Federal OBD.

3. Migration—The auto manufacturers have used a migration rate into the OTR of roughly 12 percent (permanent—7%, temporary/visitation—5%). These numbers have been generated primarily on the basis of movement of people into the OTR, as opposed to vehicles. Preliminary State data indicates that these numbers are probably high, based on limited vehicle data collected by States. Ultimately vehicle-based data is preferable to resident-based data, but it is not readily available. Therefore, while the OTC States do not necessarily accept the 7% and 5% estimates pending further development of State vehicle-based data, these estimates were used for the purpose of this analysis.

4. Power Plant Emissions—Because of the development of stationary source NO_x controls within the OTR, and the need to come up with attainment demonstrations, the OTC acted on a plan on September 27, 1994, which commits to a NO_x budget for large boilers, including those for utilities. Therefore, it is not reasonable to assume that there will be increased NO_x emissions as a result of the additional electric generation resulting from charging of electric vehicles. If there is increased electric generation, emissions will still be controlled by virtue of the overall budget.

5. Fuel distribution and refinery emissions—For each electric vehicle on the road, it can be assumed that there is a gasoline-fueled vehicle that is not, thereby eliminating the VOC emissions related to gasoline handling at bulk terminals and gasoline stations, and any VOC and NO_x emissions related to refinery operation within the OTR. These emissions are *not* included in this analysis, thereby making the numbers reported here conservative with respect to VOC and NO_x.

6. Advanced technology—The OTC LEV program allows States to eventually benefit from the advancement of technology for ULEVs and ZEVs. While it is difficult to predict exactly what advances are possible, it is clear that ULEV technology is now being developed to respond to the LEV program. Under the OTC LEV program, the fleetwide average is based on an assumption that in 2003, the fleet mix will be primarily LEVs, with 10% ZEVs and the balance ULEVs. Given the advances in ULEV technology, then an appropriate scenario to test possible additional benefits in the future would be a switch from LEV to ULEV technology (i.e. 90% ULEV and 10% ZEV). 2005 has been chosen for the start of this scenario.

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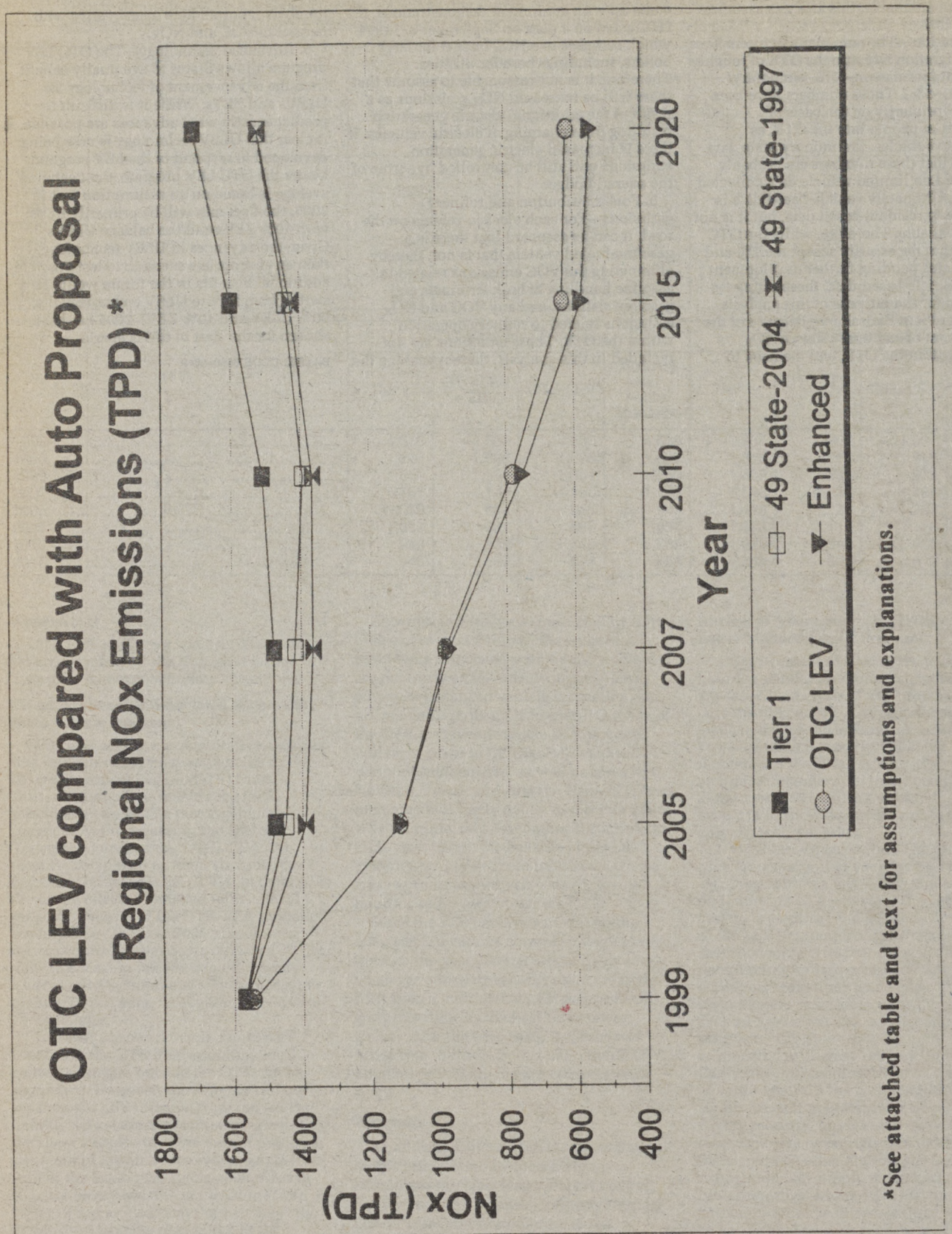
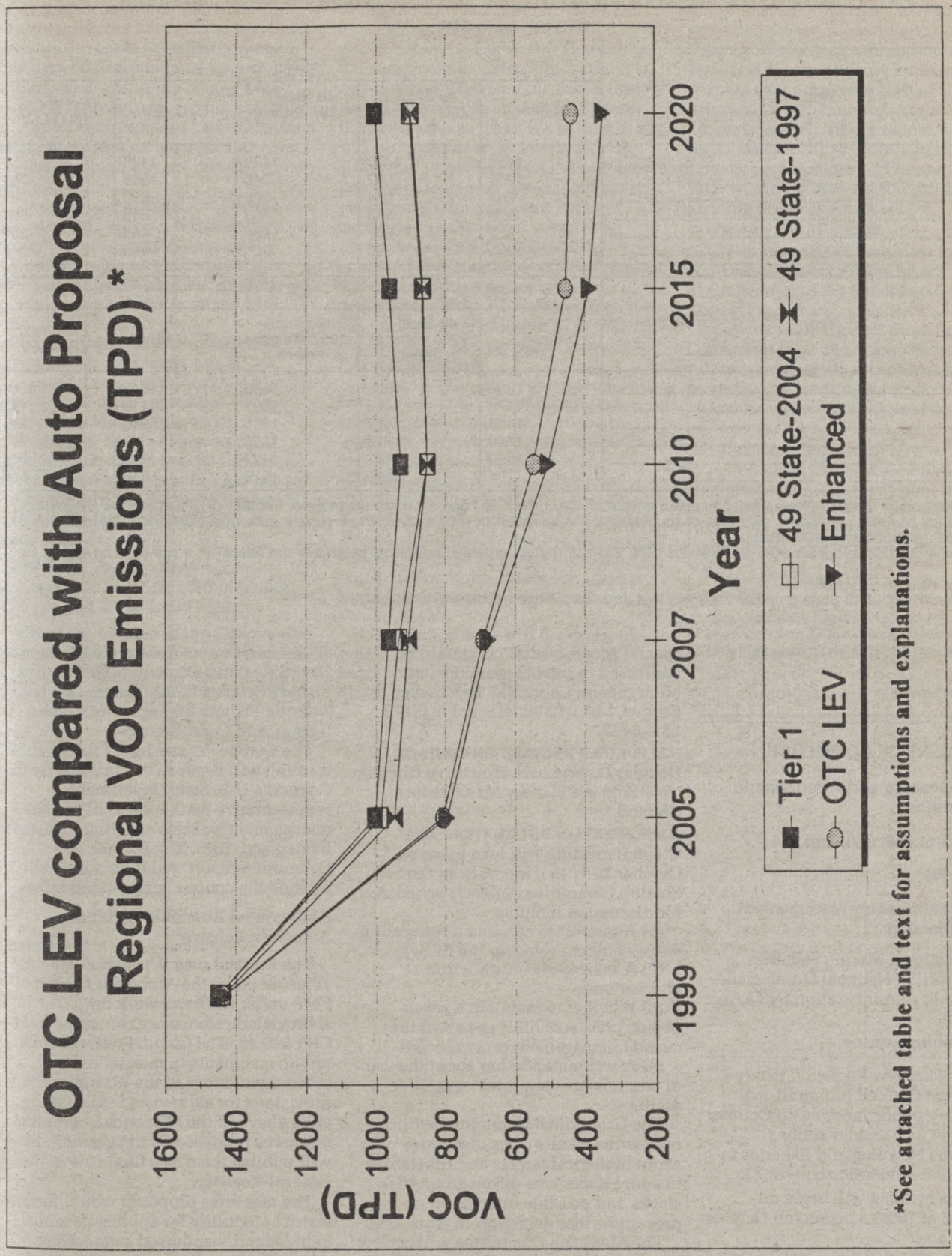


*See attached table and text for assumptions and explanations.



*See attached table and text for assumptions and explanations.

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OTC COMPARISON OF EMISSIONS FROM OTC LEV AND AUTOMAKERS' PROPOSAL (49 STATE)

[Tons per day in OTR]

Year	VOC				
	Tier 1	49 State—2004 enforcement	49 State—1997 enforcement	OTC LEV	Enhanced OTC LEV
1999	1450	1450	1439	1436	1436
2005	1003	987	948	808	798
2007	964	934	906	692	679
2010	929	853	853	548	506
2015	961	867	864	455	387
2020	1005	905	901	440	349

Year	NO_x				
	Tier 1	49 State—2004 enforcement	49 State—1997 enforcement	OTC LEV	Enhanced OTC LEV
1999	1568	1568	1566	1543	1543
2005	1478	1448	1391	1116	1116
2007	1479	1417	1366	980	970
2010	1510	1393	1366	782	752
2015	1599	1442	1427	632	577
2020	1705	1519	1519	618	548

The automakers proposal indicates that fuel sulfur effects on California OBD operation are unresolved; Federal OBD is therefore assumed.

All scenarios assume permanent migration of roughly 7% and visitation of roughly 5%; State vehicle data under development indicates that these figures are probably overestimates.

Enhanced OTC LEV assumes 90% ULEVs and 10% ZEVs to reflect potential additional benefit in the future as a result of advanced technology.

OTC LEV includes ZEV benefits.

1997 enforcement of 49 State proposal assumes that an enforcement mechanism is developed.

[FR Doc. 94–26179 Filed 10–19–94; 12:22 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 649, 650, and 651

[I.D. 101494B]

New England Fishery Management Council; Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting on October 26–27, 1994, to consider actions affecting the New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will begin on October 26 at 10:00 a.m. and on October 27 at 8:30 a.m.

ADDRESSES: The meeting will be held at the King's Grant Inn, Route 128 and Trask Lane, Danvers, MA 01923; telephone: (508) 774–6800. Requests for special accommodations should be addressed to New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; telephone: (617) 231–0422.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council.

SUPPLEMENTARY INFORMATION: The Council meeting will take place on October 26 with a report from the Sea Scallop Committee. Subjects scheduled for discussion include:

(1) A request to conduct a sea scallop enhancement project in the EEZ;

(2) A review of consolidation alternatives;

(3) Whether to maintain a seven-person crew size limit as part of the current management program; and

(4) A recommendation about the use of area closures to protect small scallops.

The Groundfish Committee will review the results of its discussions about biological targets and timetables to address declines of key groundfish stocks and possible interim action to prevent further decreases in stock size.

The Monkfish Committee will review its progress on the development of a fishery management plan (FMP).

The afternoon session will conclude with reports from the Council Chairman, Council Executive Director, NMFS Regional Director (RD), Northeast Fishery Science Center liaison, Mid-Atlantic Fishery Management Council liaison, and Coast Guard.

The October 27 session of the Council meeting will begin with a briefing by the Council's U.S. State Department representative on the status of various management policies affecting high-seas fishing activities. The Lobster Committee report will follow and will include the actions summarized below.

Abbreviated Rulemaking Action—American Lobster

The Council may take action on adjustments to the American Lobster FMP under the framework for abbreviated rulemaking contained in 50 CFR 649.43. The Council will consider public comments in making its recommendations to the RD under the provisions for abbreviated rulemaking cited above. If the RD concurs with the measures proposed by the Council, he will publish them as a final rule in the **Federal Register.**

The measures proposed would further restrict eligibility for applicants who held federally-endorsed state lobster permits but not Federal permits, as of March 25, 1991. These applicants would be required to show proof of ownership of a fishing vessel and of having landed

lobsters prior to March 25, 1991. Additionally, the lobster landings must have come from the qualifying vessel. This may be demonstrated by providing landings receipts in the name of the vessel. If such evidence is not available, an applicant must submit an affidavit stating that lobsters were landed with the vessel which has met the ownership requirement.

The framework adjustment document also would allow NMFS to delay issuing limited-access permits to resolve eligibility problems and require that NMFS make available a list of limited-access permit holders on a periodic basis, if requested.

The Council also will discuss and accept public comments on an additional framework adjustment to the Lobster FMP under abbreviated rulemaking. Issues concerning uniformity in Federal versus state permit requirements will be discussed to ensure that anyone with a history of fishing for lobsters in the EEZ may qualify for a Federal limited-access lobster permit.

Abbreviated Rulemaking Action—Northeast Multispecies, Atlantic Sea Scallops and American Lobster

Within the context of the Interspecies Committee report, the Council may consider action on adjustments to the Multispecies, Scallop and Lobster FMPs under the framework for abbreviated rulemaking contained in 50 CFR 650.43 and 651.40. The Council will accept comments and consider final action on framework adjustment measures that would allow an applicant for Federal limited-access permits for multispecies, scallops or lobsters to obtain fishing rights and to qualify for a limited-access permit for 1994 and subsequent years even though the applicant may not currently own title to a vessel. The permit would be limited to plan-specified characteristics of the vessel for which the fishing rights were established. If the RD concurs with the Council's recommendation, he will publish them as a proposed rule in the **Federal Register**.

Under current regulations, eligibility for limited-access permits requires ownership of a vessel that qualifies under the various moratorium criteria for the above-named fisheries. In addition, applicants must obtain a permit in 1994 to be eligible for a limited-access permit in future years. The situation might lead to a permanent loss of fishing privileges by anyone who holds fishing rights under the various moratorium provisions but does not own a vessel.

Also, the Council will discuss and accept comments on an additional framework adjustment to the Multispecies FMP in accordance with the provisions cited above. The proposed measure would exempt from the permit splitting prohibition those vessels subject to having multispecies permits cancelled which were acquired prior to the implementation date of Amendment #5. This measure would retain the permit splitting prohibition from being implemented retroactively. This would be the initial Council meeting under the process for framework adjustments.

The Interspecies Committee may continue a series of ongoing discussions about general management goals. If so, Council members' opinions and arguments will be given priority. Comments from the floor will be limited, but may be accepted if time permits. The meeting will conclude after other relevant business has been addressed.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall (see **ADDRESSES**), at least 5 days prior to the meeting date.

Dated: October 17, 1994.

Joe P. Clem,

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

[FR Doc. 94–26225 Filed 10–21–94; 8:45 am]

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Notices

Federal Register
Vol. 59, No. 204
Monday, October 24, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Committee on Governmental Processes

ACTION: Notice of Public Meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92–463), notice is hereby given of a meeting of the Committee on Judicial Review and the Committee of Governmental Processes of the Administrative Conference of the United States.

AGENCY: Committee on Judicial Review.

DATES: Wednesday, November 9, 1994, at 2:00 p.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

AGENCY: Committee on Governmental Processes.

DATES: Friday, December 2, 1994, at 9:30 a.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street NW., Suite 500, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Deborah S. Laufer, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The Committee on Judicial Review will continue discussion of a draft report by Professor William Kovacic of George Mason University, currently visiting at American University, on choice of forum in government contract bid protest disputes. The Committee will also discuss a study in progress by Professor Neal Devins of the College of William and Mary concerning allocation of responsibility, between the Department of Justice and other federal agencies, for the conduct of litigation involving the federal government.

The Committee on Governmental Processes will continue discussion of when federal government lawyers may participate in pro bono activities. There are possible restrictions in the Code of Professional Responsibility, in agency regulations governing outside activities, and in government-wide rules concerning use of government instrumentalities. The committee will start its discussion by reviewing a 1991 report on the subject written by consultant Professor Lisa Lerman of Catholic University School of Law.

Attendance at the meetings is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman at least one day in advance. The chairman of each committee, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: October 17, 1994.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 94–26300 Filed 10–21–94; 8:45 am]

BILLING CODE 6110–01–W

AGENCY FOR INTERNATIONAL DEVELOPMENT

Public Information Collection Requirements Submitted to OMB for Review

The U.S. Agency for International Development (U.S.A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than ten days after publication. Comments may also be addressed to, and copies of the submissions obtained from the Records Management Officer, Reneé Poehls, (202) 736–4743, M/FA/AS/ISS, Room B930 NS, Washington, DC 20523–0097.

Date Submitted: October 3, 1994.

Submitting Agency: U.S. Agency for International Development.

OMB Number: 0412–0012.

Type of Submission: Renewal.

Title: Supplier's Certificate and Agreement with the Agency for International Development—Invoice and Contract Abstract.

Purpose: The U.S. Agency for International Development (A.I.D.) finances goods and related services under its Commodity Import Programs (CIPS) which are contracted for by public and private entities in the countries receiving the U.S.A.I.D. assistance. Since A.I.D. needs some means to collect information directly from the suppliers of the goods and related services and enable U.S.A.I.D. to take appropriate action against them in the event they do not comply with the applicable regulations. A.I.D. does this by securing from the suppliers, as a condition for the disbursement of funds, a certificate and agreement with U.S.A.I.D. which contains appropriate representations by the suppliers.

Annual Reporting Burden: Respondents: 600; annual responses: 3600; average hours per response: .50; annual burden hours: 1800.

Reviewer: Jeffery Hill (202) 395–7340, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 7, 1994.

Elizabeth Baltimore,

Bureau for Management, Administrative Service, Chief, Information Support Services Division.

[FR Doc. 94–26288 Filed 10–21–94; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Government Owned Inventions Available for Licensing

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of

Agriculture, and are available for Licensing in accordance with 35 U.S.C. 207 and 37 CFR 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: June Blalock, Technology Licensing Coordinator, USDA, ARS, Room 401, Bldg. 005, BARC–West, Beltsville, Maryland 20705; Phone 301–504–5989 or Fax 301–504–5060. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

8–186,182, Hydroxymethylated Resorcinol Coupling Agent and Method for Bonding Wood

8–233,173, Non-Separable Starch-Oil Compositions

8–235,432, Botcinolide: A Natural Product Herbicide

8–242,830, Temperature Adaptable Glyoxal-Modified Fibers and Method of Preparing Same

8–257,965 Method of Removing Color From Kraft Wood Pulps

8–261,510, Biologically-Identified Optimal Temperature Interactive Console (BIOTIC) for Managing Irrigation

8–265,367, Enzyme Catalyzed Synthesis of Structured Lipids

8–269,325, In Ovo Immunization of Avian Embryos with Oil-Emulsion Vaccines

8–272,477, Chemically Synthesized Sugar Esters for the Control of Soft Bodied Arthropods

8–282,580, Saccharomyces Treatment to Diminish *Campylobacter* and *Salmonella* Populations in Poultry

8–283,115, Repellents for Ants

8–296,146, Malathion Resistant Strain of a Hymenopterous Parasitoid

8–303,808, A Dual Side Plant Leaf Washer and Immersion Cell

June Blalock,

Technology Licensing Coordinator.

[FR Doc. 94–26222 Filed 10–21–94; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Regulations and Procedures Technical Advisory Committee will be held November 15, 1994, 9 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street and Pennsylvania Avenue NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on implementation of the Export Administration Regulations (EAR) and provides for continuing review to update the EAR as needed.

Agenda

General Session

1. Opening Remarks by the Chairman.
2. Presentation of Papers or Comments by the Public.
3. Discussion on Automated Export System.
4. Discussion on Regulations Reform.
5. Reports from Working Groups.
6. Updates on Export Administration and Export Enforcement.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, TAC Unit/OAS/EA, Room 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 18, 1993, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For further information, call Lee Ann Carpenter at (202) 482–2583.

Dated: October 19, 1994.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 94–26322 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–DT–M

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Labor.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 09/16/94–10/12/94

Firm name	Address	Date petition accepted	Product
Applied Microsystems Corporation	5020 148th Ave. NE, P.O. Box 97002 Redmond, WA 98073–9702.	10/05/94	In-circuit emulation units.
Copes-Vulcan, Inc	P.O. Box 577, Lake City, PA 15423–0577	10/07/94	High-Pressure Valves and Programmable controls and boiler cleaning equipment.
Dolphin Services, Inc	205 Thompson Road, Houma, LA 70363	10/07/94	Deck, skid and piping fabrication.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 09/16/94–10/12/94—Continued

Firm name	Address	Date petition accepted	Product
Eastland Woolen Mill, Inc	Main Street, Corinna, ME 04928	09/30/94	Wool and wool blend Fabric and raw material Fibers.
Fire Research Laboratories, Inc	5364 Pan American Fwy, NE Albuquerque, NM 97109.	09/30/94	Fire retardant coatings-dispersed or dissolved in a nonaqueous and aqueous medium.
Golden Eagle Growers	4970 Howell Street, Golden, CO 80403	09/30/94	Cut Flowers, roses and alstremaria.
International Refining & Manufacturing Co	2117 Greenleaf Street, Evanston, IL 60202.	10/13/94	Industrial Lubricants, not Petroleum Based, for stamping and Machining.
Kiddie Lites, Inc	202 Main Street, Roxbury, NY 12474	10/07/94	Ceramic lamps, piggy banks, clocks and bookends.
Mauney Hosiery Mills	P.O. Box 1279/20, Pine Street Kings Mountain, NC 28086.	10/07/94	Socks.
OMSC Shirt Corporation dba Morgan Shirt Corp.	P.O. Box 864, Morgantown, WV 26505	09/18/94	Men's and Ladies sport shirts.
PMI, Pheonix Metallurgical, Inc	1 Airport road Hopedale, MA 01747	10/03/94	Diamond segments.
Precision Machine Works, Incorporated	2024 Puyallup Avenue East Tacoma, WA 98401–1115.	10/07/94	Aluminum Parts.
Progressive Recovery, Inc	700 Industrial Drive, Dupo, IL 62239	10/07/94	Distilling and recovery systems for industrial solvents of sheet metal or steel and washing systems.
Roe Incorporated	12900 Eckel Junction Rd., Perrysburg, OH 43551.	10/13/94	Continuous action conveyor systems of metal, rollertype, for the movement of TV tubes.
Sundog, Incorporated	6700 South Glacier Street Seattle, WA 98188.	09/30/94	Camera bags, duffel bags, and soft sided luggage.
Xebec Corporation	5612 Brighton Terrace, Kansas City, MO 64130.	10/03/94	Equipment to test electric cables.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, Room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: October 18, 1994.

Daniel F. Harrington,

Director, Trade Adjustment Assistance Division.

[FR Doc. 94–26239 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–24–M

Foreign-Trade Zones Board

[Docket 35–92]

Proposed Foreign-Trade Zone—Marysville, MI; Withdrawal of Application

Notice is hereby given of the withdrawal of the application submitted by the Greater Detroit Foreign Trade Zone, Inc., grantee of FTZ 70, requesting authority to establish a general-purpose foreign-trade zone in Marysville, St. Clair County, Michigan, adjacent to the Port Huron Customs port of entry (filed on 12/1/92, 57 FR 58790, 12/11/92).

Dated: October 14, 1994.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–26324 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–549–810]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters From Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 24, 1994.

FOR FURTHER INFORMATION CONTACT: David Boyland or Susan Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4198 and 482–1442, respectively.

PRELIMINARY DETERMINATION: We preliminarily determine that disposable pocket lighters from Thailand are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930 (the "Act"), as amended. The estimated margins of sales at less than fair value are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on May 31, 1994 (59 FR 29412), the following events have occurred:

On June 29, 1994, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination (see ITC Investigation No. 731–TA–701).

In accordance with 19 CFR 353.42(b)(1994), an antidumping duty questionnaire was presented on July 1, 1994, to Thai Merry Co., Ltd. ("Thai Merry") which accounts for over 60 percent of all Thai exports of lighters to

the United States during the POI. On August 11, 1994, we sent a deficiency questionnaire regarding respondent's section A questionnaire response. On August 19, 1994, the Department granted respondent's request to extend the deadline for response to section B and C of the Department's questionnaire, as well as the section A deficiency questionnaire. On September 6, 1994, the Department received responses to section B and C of the Department's questionnaire, as well as the section A deficiency questionnaire. On September 13, 1994, the Department issued a deficiency questionnaire with regard to respondent's section B and C responses. On September 22, 1994, the Department received the response to the second deficiency questionnaire. On September 29, 1994, respondent was requested to submit information regarding the single national distributor in the home market. On October 3, 1994, the Department received additional information regarding the home market national distributor.

Scope of the Investigation

The products covered by this investigation are disposable pocket lighters, whether or not refillable, whose fuel is butane, isobutane, propane, or other liquified hydrocarbon, or a mixture containing any of these, whose vapor pressure at 75 degrees fahrenheit (24 degrees celsius) exceeds a gage pressure of 15 pounds per square inch. Non-refillable pocket lighters are imported under subheading 9613.10.0000 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Refillable, disposable pocket lighters would be imported under subheading 9613.20.0000. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written descriptions of the scope of these proceedings are dispositive.

Period of Investigation

The period of investigation ("POI") is December 1, 1993 through May 31, 1994.

Product Comparisons

We have determined that the class or kind of merchandise subject to this investigation constitutes a single such or similar category. In making our fair value comparisons, in accordance with the Department's standard methodology, we first compared merchandise identical in all respects. If no identical merchandise was sold, we compared the most similar merchandise, as reflected in Appendix V of the questionnaire ("Appendix V") (on file in Room B–099 of the main building of the Department of Commerce ("Public File")) and incorporated by Thai Merry in its response. For the U.S. sales compared to sales of similar merchandise, we made an adjustment, pursuant to 19 CFR 353.57, for physical differences in merchandise.

Fair Value Comparisons

To determine whether Thai Merry's sales for export to the United States were made at less than fair value, we compared the United States price ("USP") to the foreign market value ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

Because all of Thai Merry's sales to the U.S. were made to national distributors, respondent has argued that the Department should base FMV on sales to a national distributor in Thailand and that sales to other home market distributors should be excluded from the Department's analysis. The Department normally makes its comparisons at the same level of trade when sales are made to customers who fall into broad categories such as retailers, distributors, and original equipment manufacturers (*see,* Import Administration Policy Bulletin 92/1). Thai Merry has claimed that there are different "levels of trade" within the general category of distributors.

The "levels of trade" claimed by Thai Merry, *i.e.*, national distributor vs. distributor, are not clearly delineated. Both are resellers, and the record does not establish that different functions are involved in performing this activity. Hence, we would require further information to determine whether national distributors and other distributors are actually different levels of trade, rather than simply different names for a common level.

We have preliminarily determined that respondent has not provided sufficient information demonstrating that these two types of distributors perform different selling functions. The Department has requested that Thai Merry supply additional information to support its claim, and we will evaluate this issue further for purposes of the final determination. For purposes of this preliminary determination, we are basing FMV on Thai Merry's sales to all distributors in Thailand.

United States Price

Because Thai Merry's U.S. sales of disposable pocket lighters were made to unrelated purchasers prior to importation into the United States, and the exporter's sales price methodology was not indicated by other circumstances, in accordance with section 772(b) of the Act, we based USP on the purchase price ("PP") sales methodology. We calculated Thai Merry's PP sales based on packed, CIF prices to unrelated customers in the United States. We made deductions to the U.S. price, where appropriate, for foreign inland freight, foreign brokerage/handling expenses, marine insurance, and ocean freight. In calculating U.S. credit expense, we used the borrowing rate in the United States on short-term dollar-denominated loans. For a further discussion of the Department's treatment of U.S. credit expense, please see *Memorandum from Barbara R. Stafford to Susan G. Esserman* (September 26, 1994) on file in room B–099 of the U.S. Department of Commerce.

In accordance with Section 772(d)(1)(B) of the Act, we made an addition to the U.S. price for the amount of import duties imposed on inputs which were subsequently rebated upon exportation of the finished merchandise to the United States.

We made an adjustment to U.S. price for VAT taxes paid on the comparison sales in Thailand, in accordance with our practice, pursuant to the Court of International Trade (CIT) decision in *Federal-Mogul, et al* v. *United States*, 834 F. Supp. 1993. See Preliminary Antidumping Duty Determination and Postponement of Final Determination; Color Negative Photographic Paper and Chemical Components Thereof from Japan, 59 FR 16177, 16179, April 6, 1994, for an explanation of this tax methodology.

Foreign Market Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of subject merchandise to the volume of third country sales of subject merchandise, in accordance with section 773(a)(1)(B) of the Act. As a result, we determined that the home market was viable.

We calculated FMV based on delivered prices, inclusive of packing, to customers in the home market. From the delivered price, we deducted home market packing and added U.S. packing costs. Pursuant to section 773(a)(4)(B) of the Act and 19 CFR 353.56(a)(2), we made circumstance-of-sale-adjustments for differences in movement charges between shipments to the United States and shipments in the home market. We also made circumstance-of-sale-adjustments for differences in advertising expenses and expenses

related to securing credit (*i.e.*, bank charges, and the imputed cost of credit).

For packing, movement, credit, and advertising expense we adjusted respondent's reported values by using the net unit price as the multiple of the value-based allocation factor. Additionally, because average credit days were reported in the home market, as opposed to transaction specific data, we are using average credit days to calculate an imputed credit cost for all home market sales.

Currency Conversion

We made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we will verify information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of disposable pocket lighters from Thailand, as defined in the "Scope of the Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacture/producer/exporter	Margin percent
Thai Merry	14.74
All others	14.74

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry within 75 days after our final determination.

Public Comment

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B–099, within ten days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed.

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than November 28, 1994, and rebuttal briefs no later than December 5, 1994. A hearing, if requested, will be held on December 8, 1994, at 1:00 pm at the U.S. Department of Commerce in Room 1815. Parties should confirm by telephone the time, date, and place of the hearing 48 hours prior to the scheduled time. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

We will make our final determination not later than 75 days after this preliminary determination.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: October 17, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–26325 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

Coastal Zone Management: Federal Consistency Appeal by Olga Vélez Lugo From an Objection by the Commonwealth of Puerto Rico

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of decision.

On September 9, 1994, the Secretary of Commerce (Secretary) issued a decision in the consistency appeal of Olga Velez Lugo (Appellant). The Appellant had applied to the U.S. Army Corps of Engineers (Corps) for a permit to construct a wood dock, restore a boat ramp and level and fill a wetland/mudflat area in the Salinas Bay area, Salinas, Puerto Rico. In conjunction with the federal permit application, the Appellant submitted to the Corps a certification that the proposed activity is consistent with Puerto Rico's federally approved Coastal Management Program (CMP). The Puerto Rico Planning Board (PRPB), the Commonwealth of Puerto Rico's coastal management agency, reviewed the certification pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. § 1456(b)(3)(A).

On June 5, 1992, the PRPB objected to the Appellant's proposed project on the ground that the proposed project is inconsistent with the enforceable policies contained in Puerto Rico's CMP. The PRPB also alleged that the Appellant's proposed project would adversely impact natural systems for private benefit and contribute to the degradation of one of Puerto Rico's designated critical coastal wildlife areas. Under CZMA section 307(c)(3)(A) and 15 CFR 930.131, the PRPB's consistency objection precludes the Corps from issuing a permit for the activity unless the Secretary finds that the activity is either consistent with the objectives or purposes of the CZMA (Ground I) or necessary in the interest of national security (Ground II). The Appellant filed an appeal from the PRPB's objection to her proposed project. The Appellant argued that the project satisfies Ground I. The Appellant did not argue Ground II issues.

Upon consideration of the entire record, which includes submittals by the Appellant and the PRPB, and written information from federal agencies, the Secretary made the following findings pursuant to 15 CFR 930.121: The second element of Ground I is dispositive of the issues in this appeal. The proposed project's minimal, at best, contribution to the national interest does not outweigh the substantial, cumulative adverse effects the activity would have on the natural resources of the coastal zone. Accordingly, the second element of Ground I was not satisfied. Because all four elements of Ground I must be satisfied for the Secretary to find that an activity is consistent with the objectives or purposes of the CZMA, it was unnecessary for the Secretary to address the other three elements of Ground I.

Because the Appellant's proposed project failed to satisfy all of the requirements of Ground I, the proposed project is not consistent with the objectives or purposes of the CZMA. Accordingly, the Secretary did not override the PRPB's objection and the Appellant's project may not be permitted by federal agencies. Copies of the decision may be obtained from the office listed below.

FOR ADDITIONAL INFORMATION CONTACT: Pamela B. Lawrence, Attorney-Adviser, 1305 East-West Highway, Suite 6111, Silver Spring, Maryland 20910, (301) 713–2967.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: October 14, 1994.

Terry D. Garcia,

General Counsel.

[FR Doc. 94–26323 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–08–M

[Docket No. 941091–4291; I.D. 092994B]

Inspection and Certification Fees and Charges

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

ACTION: Notice of inspection fees.

SUMMARY: NMFS announces changes in its fees and charges for voluntary fishery products inspection, grading, and certification services. The change in fees and charges represents an increase of 9.7 percent in the basic hourly rates and includes a 2.6 percent salary increase and varying locality pay increases expected in January 1995, as well as increased fees for histamine, isoelectric focusing, and methylmercury analyses. NMFS is establishing a separate rate for users of its Hazard Analysis Critical Control Point (HACCP)-based service to accommodate the specialized costs associated with providing this service. NMFS is also informing the public of its intention to begin charging for certain label review services later in fiscal year 1995.

EFFECTIVE DATE: October 1, 1994.

FOR FURTHER INFORMATION CONTACT: Richard V. Cano, Chief, Inspection Services Division, 301–713–2355.

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946, which authorizes the voluntary fishery products inspection, grading, and certification program, mandates cost recovery for providing these services. Reorganization Plan No. 4 of 1970 delegated these authorities to NMFS. NMFS reviews and revises the rates to ensure cost recovery for its services and publishes a document of fee changes in the **Federal Register**. The document of February 4, 1994 (59 FR 5391), which retroactively announced changes in fees and charges effective January 1, 1994, also stated that further changes were expected in October 1994. To coincide with the beginning of the fiscal year and to facilitate budget management, changes in fees and charges set forth below will be effective retroactively October 1, 1994, with the intention to maintain them for the entire fiscal year. However, circumstances that prevent or inhibit cost recovery during the year may cause additional changes.

The new fees represent an increase of 9.7 percent in the basic hourly rates and includes a 2.6 percent salary increase and varying locality pay increases expected to occur in January 1995. Most of the increase is required to recover increased labor, travel, and transportation costs.

NMFS recognizes and appreciates any concern that may arise as a result of the increase in fees and charges.

However, the mandate of the Agricultural Marketing Act of 1946 to recover service costs is very clear.

A separate rate is being established for the HACCP-based service to accommodate its specialized costs. A review of the costs associated with providing this service, since its availability in July 1992, showed that labor costs were higher than those of the other inspection services. Specifically, the required specialized training and complexity of duties (e.g., review of the HACCP plan, conduct of validation and systems audits) require the skills of more highly qualified inspectors who command higher salaries. Increased supervisory oversight and the less predictable nature of the inspectors, schedules also contributed to the higher costs of HACCP-based inspection. For these reasons, a separate hourly rate is fair and appropriate. It allows for the specific costs to be borne by the direct user rather than increasing the financial burden to those not receiving the HACCP-based service.

Users of in-plant (Type I) services are advised that NMFS will begin charging for certain label reviews in fiscal year 1995. NMFS is considering a mechanism to permit pre-approval on labels reviewed by facilities that have demonstrated an adequate understanding of basic labeling requirements and proper use of NMFS' marks. Charges for label review will be assessed to those facilities not given preapproval authority. The policy will be made available as soon as possible.

NMFS is restating its policy published in the **Federal Register** document of February 4, 1994. That is, in addition to the hourly fee charges, all users of voluntary inspection services will be assessed for sampling and laboratory analysis that will be performed randomly on a limited frequency, depending on the health risk of the end product to consumers. This sampling and analysis protocol, conducted as a surveillance mechanism of the inspection program and the industry, will provide added verification that the consumer receives safe, wholesome, and properly labeled products. The details of the surveillance sampling and billing procedures are available upon request.

Below is the schedule of fees effective October 1, 1994. Charges for services provided in Alaska by NMFS inspectors will be at the rates specified immediately below, plus cost of living allowances. The fees outlined for the State of Alaska are for services provided by cross-licensed State of Alaska inspectors. Unless otherwise determined by NMFS, inspections conducted in the State of Alaska will be by cross-licensed State of Alaska inspectors.

(a) Type I—In-plant inspection services:

Non-HACCP contracts	Per hour
Regular (except Alaska)	$39.95
Overtime (except Alaska)	59.93
Sunday and legal holidays (2 hrs. minimum) (except Alaska)	79.90

(1) The contracting party will be charged at an hourly rate of $39.95 per hour for regular time;

(2) An hourly rate of $59.93 for overtime in excess of 8 hours per shift per day; and

(3) An hourly rate of $79.90 for Sunday and national legal holidays for services performed by inspectors at official establishment(s) operating under Federal inspection.

HACCP contracts	Per hour
Regular	$49.94
Overtime	74.91
Sunday and legal holidays (2 hrs. minimum)	99.88

(1) The contracting party will be charged at an hourly rate of $49.94 per hour for regular time;

(2) An hourly rate of $74.91 for overtime in excess of 8 hours per shift per day; and

(3) An hourly rate of $99.88 for Sunday and national legal holidays for services performed by inspectors at official establishment(s) operating under Federal inspection.

In addition to any hourly service charge, a night differential fee equal to 10 percent of the employee's hourly salary will be charged for each hour of service provided after 6 p.m. and before 6 a.m. The contracting party will be billed monthly for services rendered in accordance with contractual provisions at the rates prescribed in this section. Products designated in a contract will be inspected during processing at the hourly rate for regular time, plus overtime, when appropriate.

(b) Type II—Lot inspection—Official and unofficially drawn samples:

	Per hour
Regular (except Alaska)	$55.93
Overtime (except Alaska)	83.90
Sunday and legal holidays (2 hrs. minimum) (except Alaska)	111.86
Minimum fee (except Alaska)	41.95

(1) For lot inspection services performed between the hours of 7 a.m. and 5 p.m., Monday through Friday—$55.93 per hour.

(2) For lot inspection services performed at times Monday through Friday other than between 7 a.m. and 5 p.m., and on Saturdays (2 hrs. minimum)—$83.90 per hour.

(3) Sunday and national legal holidays (2 hrs. minimum)—$111.86 per hour.

(4) The minimum service fee to be charged and collected for inspection of any lot or lots of products requiring less than 1 hour will be $41.95.

(c) Type III—Miscellaneous inspection and consultative services.

When any inspection or related service such as, but not limited to, initial and final establishment surveys, appeal inspections, contract lot inspections, sanitation evaluations, Sanitary Inspected Fish Establishment (SIFE) inspections, sampling, product evaluations, and label and product specification reviews, requires charges to which the foregoing sections are clearly inapplicable, charges will be based on the rates set forth below:

	Per hour
Regular (except Alaska)	$49.94
Overtime (except Alaska)	74.91
Sunday and legal holidays (2 hrs. minimum) (except Alaska)	99.88
Minimum fee (except Alaska)	37.45

In keeping with the intent of the authorizing legislation and the policies of the Inspection Program to charge fees to recover, as nearly as possible, the costs of providing inspection services, the hourly rates charged to contract lot inspection users who provide complete and acceptable facilities that are used by U.S. Department of Commerce (USDC) inspectors to conduct the necessary official contract functions will be those delineated under Type I. In all other cases, contract lot inspection users will be charged Type III rates.

(1) For miscellaneous inspection and consultative services performed between the hours of 7 a.m. and 5 p.m., Monday through Friday—$49.94 per hour.

(2) For miscellaneous inspection and consultative services performed Monday through Friday, other than between 7 a.m. and 5 p.m., and on Saturdays (2 hrs. minimum)—$74.91 per hour.

(3) For miscellaneous inspection and consultative services performed on Sunday and national legal holidays (2 hrs. minimum)—$99.88 per hour.

(4) The minimum service fee to be charged and collected for miscellaneous inspection and consultative services requiring less than 1 hour will be $37.45.

(d) The hourly rates for the State of Alaska as performed by cross-licensed State of Alaska inspectors are as follows:

Charges for services provided in Alaska by NMFS inspectors will be at the rate stated previously, plus cost of living allowances. For Type I inspection, in addition to any hourly service charge, a night differential fee equal to 10 percent of the employee's hourly salary will be charged for each hour of service provided after 6 p.m. and before 6 a.m.

STATE OF ALASKA-AREA

[Per hour]

	Aleutian Chain, Bristol Bay, Dillingham	South East and South Central Anchorage, Kenai, Juneau, Ketchikan	Remainder of Alaska, Kodiak
Type I:			
Regular time	$49.45	$40.80	$43.70
Overtime	68.30	56.35	60.35
Sunday and legal holidays	85.15	70.20	75.20
Type II:			
Regular time	62.90	52.65	55.55
Overtime	86.75	74.85	78.90
Sunday and legal holidays	113.75	96.40	102.15
Minimum fee	51.60	43.20	45.55
Type III:			
Regular time	54.90	45.65	48.55
Overtime	73.05	61.25	65.60
Sunday and legal holidays	93.95	78.65	85.00
Minimum fee	48.90	40.65	43.70

(e) Analytical services: Applicants requesting specific analyses to be performed in a NMFS laboratory, or participants who are required to have product analyzed periodically as part of the surveillance sampling protocol identified previously, will be charged at the rates identified below. Shipping costs for samples will also be assessed.

Analyses performed in a private laboratory will be charged at the current rate of that laboratory. Charges based on these fees will be in addition to any hourly rates charged for lot, miscellaneous, and consultative inspection service, as well as to any hourly rates charged for inspection services provided under a contract.

Microbiology:	
Total aerobic plate count.	$16.00
Total coliform	$12.00
Fecal coliform	$12.00 additional
E. coli	$12.00 additional
Staph. aureus	$45.00
Salmonella BAM	$33.00
Method Step 1.	
Step 2	$15.00 additional
Step 3	$22.00 additional
Listeria.	
Presumptive	$23.00
Confirmed	$35.00 additional
Chemistry:	
Histamine	$100.00
Indole	$75.00
Ammonia	$55.00

Sodium bisulfite ...	$90.00
Isoelectric focusing (species identification).	$90.00
Methylmercury	$150.00
Chlorinated pesticides.	$250.00
Polychlorinated biphenyls.	$250.00
Domoic acid	$75.00
Bioassay:	
Paralytic shellfish poison.	$85.00 per sample (minimum of 3 samples)

Notes: The above costs are for analyses only. Sampling and travel time will be assessed using the Type II rates. Mileage costs will be assessed at the current rate. For other analyses not shown or not frequently requested, the charge will be assessed at the Type III hourly rate of $49.94 or separately established based on the particular issues of the analyses involved.

All charges are per sample. An administrative surcharge of 20 percent of the total cost will continue to be assessed.

Classification

This action is taken under the authority of 50 CFR 260.70 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 742e and 7 U.S.C. 1622, 1624.

Dated: October 19, 1994.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 94–26336 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–22–P

[I.D. 101794F]

Gulf of Mexico Fishery Management Council; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting on November 7, 1994, from 9:30 a.m. until 5:30 p.m., and on November 8, from 8:00 a.m. until 12:00 noon, to review and discuss issues related to total allowable catches (TACs), a report on Reef Fish Amendment 9 data and plans for notification of fishermen, approval of Reef Fish Amendment 8 for public hearings, the Reef Fish Amendment 11 options paper, and Alabama's request for special management zones.

The meeting will be held at the Omni Royal Orleans, 621 St. Louis Street, New Orleans, LA.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by October 24, 1994.

Dated: October 18, 1994.

David S. Crestin,

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

[FR Doc. 94–26335 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 101794C]

Mid-Atlantic Fishery Management Council; Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Coastal Migratory Committee (with Atlantic States Marine Fisheries Commission (ASMFC) Bluefish Board) and Large Pelagic/Shark Committee will hold public meetings on November 8–10, 1994, at the Norfolk Airport Hilton, 1500 N. Military Highway, Norfolk, VA 23502; telephone (804) 466–8000.

On November 8, the Coastal Migratory Committee (with the ASMFC Bluefish Board) will meet from 1:30 until 3:30 p.m. On November 9, the full Council will meet from 8:00 a.m. until 3:30 p.m., at which time the Large Pelagic/Shark Committee will begin its meeting. On November 10, the full Council will meet at 8:00 a.m. until approximately noon.

The following topics will be discussed:

(1) Scoping for Bluefish Fishery Management Plan (FMP) Amendment 1;

(2) Atlantic Mackerel, Squid and Butterfish FMP Amendment 5;

(3) Scup FMP;

(4) Review scoping process for Shark and Tuna; and

(5) Other fishery management matters.

The Council meeting may be revised, lengthened or shortened based on the progress of the meeting. The Council may go into closed session to discuss personnel or national security matters.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: (302) 674–2331.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis on (302) 674–2331, at least 5 days prior to the meeting date.

Dated: October 18, 1994.

David S. Crestin,

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

[FR Doc. 94–26261 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 101794B]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Regional Fishery Management Council (Council) and its Committees will hold meetings from November 7–9, 1994, in the Hawaiian Ballroom of the Hawaiian Regent at Waikiki Beach, 2552 Kalakaua Avenue, Honolulu, HI. Standing Committees will meet on November 7, beginning at 7:00 am, and the full Council will meet on November 8–9, beginning at 8:00 am. The Council may discuss and take action on the following:

1. Reports from the Islands

2. Reports from Fishery Agencies and Organizations

3. Enforcement Reports

4. Scientific Review of Fishery Management Plan Overfishing Definitions

5. Ecosystems and Protected Resources

A. Longline observer program

B. Biological opinion implementation workshop

C. Marine Mammal Protection Act amendments

D. Status of monk seals relocated to main Hawaiian Islands

E. Status of Midway Reuse Committee

F. U.S. Coral Reef Initiative

6. Pelagics

A. Status of fisheries

B. Status of request for single-council designation

C. Pelagic Fisheries Research Program

D. Small Boat Working Group—report and recommendations

7. Bottomfish

A. Northwestern Hawaiian Islands (NWHI) permit actions
B. Hawaii Bottomfish Task Force—report and recommendations
C. Status of revised NWHI catch reporting
D. Bottomfish Committee recommendations

8. Crustaceans

A. Status of NWHI lobster fishery
B. Status of Amendment 8
C. NWHI lobster management quota review
i. Background and issues
ii. NMFS perspective
iii. Report and recommendations of Crustaceans Plan Team and Advisory Panel

9. Native Rights

10. Program Planning

A. Status of joint Interior-Commerce working group to review Federal fishery policy in the Pacific
B. Status of the Magnuson Act reauthorization
C. Western Pacific Fisheries Information Network funding and data procedures manual
D. Social science research priorities
E. Cooperative project to correlate El Niño-Southern Oscillation and island fishery data
F. Public Education Outreach Program
G. Definitions of commercial and recreational fishing

11. Administrative Matters

A. Recommendations of Executive and Budget & Program Committees
B. 1995–96 Advisory Panel solicitation
C. Scheduling of 86th Council meeting
D. Reports on meetings and workshops

12. Election of Officers for 1995

13. Other Business

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Regional Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI, 96813; telephone 808–522–8220.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: October 18, 1994.

David S. Crestin,

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

[FR Doc. 94–26334 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–22–F

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

October 18, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 19, 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 Categories 347/348/647/648, 347/348 (sublimit), 351/651, 433 and 448 are being increased by application of swing, reducing the limit for Categories 342/642 to account for the increases.

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

October 18, 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 October 19, 1994, you are directed to adjust 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]
342/642	264,270 dozen.
347/348/647/648	1,828,659 dozen of which not more than 1,332,283 dozen shall be in Categories 347/348 and not more than 831,038 dozen shall be in Categories 647/648.
351/651	842,931 dozen.
433	22,060 dozen.
448	38,585 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. 94–26251 Filed 10–21–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title: Application for Training Leading to a Commission in the United States Air Force; AF Form 56; OMB Number 0701–0001

Type of Request: Revision

Number of Respondents: 2,900

Responses Per Respondent: 1

Annual Responses: 2,900

Average Burden Per Response: 20 minutes

Annual Burden Hours: 967

Needs and Uses: The information collected hereby, is utilized in support of the various Air Force officer procurement programs. Respondents are civilians and active duty airmen who apply for training leading to an Air Force commission. Air Force application processing activities and approval authorities use the information to select qualified applicants for officer training.

Affected Public: Individuals or households

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 19, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–26327 Filed 10–21–94; 8:45 am]

BILLING CODE 5000–04–M

Office of the Secretary

Medical Services Reimbursement Rates for Fiscal Year 1995

Notice is hereby given that the Deputy Comptroller (Financial Systems) in a memorandum dated September 2, 1994, established the following reimbursement rates for inpatient and outpatient medical care to be provided in FY 1995.

Inpatient, Outpatient, and Other Rates and Charges

I. INPATIENT RATES [1, 2]

Per inpatient day	International Military Education and Training (IMET)	Interagency other federal agency sponsored patients	Other
A. Burn Center	$2,053	$3,532	$3,781
B. Surgical Care Services (Cosmetic Surgery)	473	1,057	1,122
C. All Other Inpatient Services (Based on Diagnosis Related Groups (DRG) Charges [3]	.....	.....	.....

Explanations at end of docket.

1. FY 1995 DIRECT CARE INPATIENT REIMBURSEMENT RATES

Adjusted Standard Amount	IMET	Interagency	Full cost	Third party
Large urban	$1,670	$3,679	$3,908	$3,908
Other urban	1,954	3,997	4,267	4,267
Rural	2,085	4,744	5,066	5,066
Overseas	2,146	4,794	5,089	5,089

2. Overview

The FY 1995 inpatient rates are based on the cost per DRG which is the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal diagnosis involved. The average costs per Relative Weighted Product (RWP) for large urban, other urban, rural, and overseas facilities will be published annually as an inpatient standardized amount. (See item 1 above). A relative weight for each DRG using the standardized amount will be the same as the DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1) which includes adjustments for outliers, area wages, and indirect medical education. An example of how to apply DoD costs to a DRG standardized weight to arrive at DoD costs is contained in part 3 of Section I.C., below.

3. Example of Adjusted Standardized Amounts for Procedures Performed

Large Urban Area—Example

a. The cost to be recovered is DoD's cost for medical services provided in a large urban area. Billings will be at the third party rate.

b. DRG: Nervous System infection except viral meningitis Relative Weight of Procedure 1.8427

c. The DoD adjusted standardized amount to be recovered is $3,908 (i.e., the third party rate as shown in the table).

d. DoD cost to be recovered is the RWP factor (1.8427) in item 3b, above, times the amount ($3,908) in 3c, above.

Cost to be recovered is $7,201.

II. Outpatient Rates [1 2]

MEPRS code*	Per Visit Clinical Service	International Military Education And Training (IMET)	Interagency & other Federal agency-sponsored patients	Other
	A. Medical Care			
BAA	Internal medicine	$72	$144	$153
BAC	Cardiology	57	114	121
BAF	Endocrinology	64	129	138
BAG	Gastroenterology	68	137	145
BAH	Hematology	99	199	210
BAJ	Nephrology	67	135	143
BAK	Neurology	59	118	126
BAM	Oncology	54	108	116
BAN	Pulmonary disease	59	118	125
BAO	Rheumatology	61	123	130
BAP	Dermatology	42	85	91
BAQ	Infectious disease	46	92	98
BAR	Physical medicine	56	113	120
BAB	Allergy	22	44	49
BAE	Diabetes	25	50	54
BAI	Hypertension	26	52	56
BAL	Nutrition	16	33	35
	B. Surgical Care			
BBA	General surgery	67	135	141
BBB	Cardiovascular/Thoracic surgery	81	162	169
BBC	Neurosurgery	93	187	195
BBD	Ophthalmology	53	107	112
BBE	Organ transplant	128	257	268
BBF	Otolaryngoloy	60	121	126
BBG	Plastic surgery	77	154	160
BBH	Proctology	54	108	114
BBI	Urology	75	150	158
BBJ	Pediatric surgery	30	60	64
	C. Obstetrical and Gynecological (OB-GYN)			
BCA	Family planning	49	99	105
BCB	Gynecology	50	100	106
BCC	Obstetrics	46	93	99
	D. Pediatric Care			
BDA	Pediatric	40	80	86
BDB	Adolescent	39	78	83
BDC	Well baby	25	50	55
	E. Orthopaedic Care			
BEA	Orthopaedic	67	134	140
BEC	Hand surgery	37	74	78
BED/BLC	Neuromuscularskeletal	26	52	55
BEE	Orthopaedic appliance	44	88	93
BEF	Podiatry	36	72	77
	F. Psychiatric and/or Mental Health Care			
BFB	Psychology	49	99	104
BFC	Child guidance	39	79	84
BFA/BFD	Mental health	54	108	114
BFE	Social work	40	81	86
BFF	Substance abuse rehabilitation	41	82	87
	G. Primary Medical Care			
BGA/BHA	Family practice/primary	45	90	96
BHB	Medical examination	43	86	91
BHC	Optometry	30	60	64
BHD	Audiology clinic	25	50	54
BHE	Speech pathology	39	78	82
BHF	Community health	35	70	75

II. Outpatient Rates [1] [2]—Continued

MEPRS code *	Per Visit Clinical Service	International Military Education And Training (IMET)	Interagency & other Federal agency-sponsored patients	Other
BHG	Occupational health	36	72	76
BHI	Immediate care clinic	59	119	125
	H. Emergency Medical Care			
BIA	Emergency care clinic	72	144	151
	I. Flight Medicine Clinic			
BJA	Flight medicine	63	126	132
	J. Underseas Medicine Care			
BKA	Underseas medicine clinic	42	85	90
	K. Rehabilitative Services			
DHB	Occupational therapy	24	48	51
DHD	Physical therapy	17	35	38
	L. Same Day Surgery			
	Same day surgery	169	340	361

*The Medical Expense and Performance Reporting System (MEPRS) code is a three digit code which defines the summary account and the subaccount within a functional category in the DoD medical system. An example of this hierarchal arrangement is as follows:

Outpatient Care (Functional Category)	MEPRS code
Medical Care (Summary Account)	BA
Internal Medicine (Subaccount)	BAA

MEPRS codes are used to ensure that consistent financial and operating performance data is reported in the DoD military medical system. Explanations at end of docket.

III. Other Rates and Charges

	International Military Education and Training (IMET)	Interagency, other federal agency sponsored patients	Other
A. Immunizations	$9	$18	$19
B. Hyperbaric services:			
1–60 minutes	81	163	169
61–120 minutes	162	325	338
121–180 minutes	243	488	506
181–240 minutes	324	650	675
C. Family member rate (Formerly military dependents rate)	.....	9.50	.....

(*Note:* Charges may be prorated based on usage)

D. Third Party Drug Reimbursement Rates [4]

Upon request, a complete list of the FY 1995 third party drug reimbursement rates may be obtained in electronic format. All requests for this information should be addressed to: Third Party Collection Program Officer, OASD(HA)/HSO&R/OMS, The Pentagon, Rm 3E343, Washington, DC 20301–1200.

The following is a listing of the dosage form description used in connection with pharmaceuticals being dispensed. See note 4 to reimbursable rates for cost of dispensing drugs.

Dosage form	Description	Interpretation
AA	Aerosol	Aerosol (ML).
AB	Aerosol	Aerosol (GM).
AC	Aerosol	Aerosol (EA).
AD	Aer Refill	Aerosol Refill (ML).
AE	Aer Refill	Aerosol Refill (EA).
AF	Foam	Aerosol Foam.
AG	Aer Refill	Aerosol Refill (GM).
AH	Aer Adap	Aerosol w/Adapter (ML).

Dosage form	Description	Interpretation
AI	Aer W/Adap	Aerosol w/Adapter (EA).
AJ	Aer Adap	Aerosol wo/Adapter (GM).
AK	AR Powder	Aerosol Powder (EA).
AL	Ampul-Neb	Ampul for Nebulization (ML).
AM	Mist	Aerosol, Mist.
AN	Vial-Neb	Vial Nebulizer.
AP	Aero Powd	Aerosol Powder (GM).
AQ	Spray	Spray (GM).
AR	Spray Rfi	Spray Refill (ML).
AS	Spray	Aerosol, Spray (ML).
AT	Spray/Pump	Aerosol, Spray w/Pump (ML).
AW	Foam/appl.	Aerosol, Foam with applicator.
CA	Capsule	Capsule (hard, soft, etc.)
CE	Capsule EC	Capsule, Enteric Coated.
CK	Sprinkle	Sprinkle Capsule.
CP	Cap Pellet	Pellets in Capsule.
CS	Capsule SA	Capsule, Sustained Action.
CT	Capsule SA	Capsule, Degradable Controlled-Release.
EA	Each	Each.
EB	Bar	Bar.
EC	Cake	Cake.
ED	Med. Soap	Soap, Medicated (EA).
EE	Liq Soap	Soap, Liquid.
EF	Dental Cone	Dental Cone.
EG	Med. Dress	Dressing, Medicated (EA).
EH	Stick	Stick.
EJ	Plaster	Plaster.
EK	Poultice	Poultice.
EL	Med. Swab	Swab, Medicated.
EM	Med. Gauze	Guaze, Medicated.
EN	Med. Tape	Tape, Medicated.
EP	Med. Soap	Soap, Medicated (ML).
ER	Med. Soap	Soap, Medicated (GM).
ES	Med. Dress	Dressing, Medicated (GM).
ET	Med. Pad	Pads, Medicated (EA).
GA	Gas	Gas.
GH	Inhaler	Inhaler (ML).
GI	Inhaler	Inhaler (EA).
GJ	Inhaler kit	Inhaler Kit (EA).
GZ	Inhaler*	Inhaler (GM).
HA	Infus. Btl	Infusion Bottle (EA).
HB	Infus. Btl	Infusion Bottle (ML).
HC	Pipette	Pipette (EA).
HD	Pipette	Pipette (ML).
HE	Allergen	Allergen.
HH	Ampul	Ampul (ML).
HI	Cartridge	Cartridge (EA).
HJ	Cartridge	Cartridge (ML).
HM	IV Soln	Intravenous Solution
HN	Piggyback	Intravenous Solution, Piggyback (EA).
HP	Piggyback	Intravenous Solution, Piggyback (ML).
HQ	Disp Syrin	Disposable Syringe (ML).
HR	Ampul	Ampul (EA).
HS	Vial	Vial (SDV, MDV or Additive) (EA).
HT	Skin Test	Skin Test.
HU	Plast. Bag	Plastic Bag, Injection (EA).
HV	Vial	Vial (SDV, MDV or Additive) (ML).
HW	Add. Syrin	Additive Syringe.
HX	Disp Syrin	Disposable Syringe (EA).
HY	IP Soln.	Intraperitoneal Solution.
HZ	Plast. Bag	Plastic Bag, Injection (ML).
JA	Jelly	Jelly.
JB	Jel	Jel (ML).
JC	Gel	Gel (ML).
JD	Jel	Jel (GM).
JE	Beads	Beads.
JG	Gel	Gel (ML).
JH	Pudding	Pudding (EA).
JJ	Pudding	Pudding (GM).
JV	Gel/Appl.	Gel with Applicator.
JW	Jelly/Appl.	Jelly with Applicator.
KA	Cream	Cream.
KL	Lubricant	Lubricant.
KP	Paste	Paste.

Dosage form	Description	Interpretation
KT	Toothpaste	Toothpaste.
KW	Cream/Appl.	Cream with Applicator.
OA	Ointment	Ointment.
OW	Oint/Appl.	Ointment with Applicator.
PA	Powder	Powder (GM).
PB	Leaves	Leaves (GM).
PC	Crystals	Crystals.
PE	Powder Effer	Powder Effervescent.
PF	Flakes	Flakes.
PG	Granules	Granules, Powder-like, Non-effervescent.
PL	Cleanser	Cleanser.
PM	Lump	Lump.
PP	Packet	Packet.
PS	Adh. Patch	Adhesive Patch, Medicated.
PT	Tooth Powd	Tooth Powder.
PU	Powder	Powder (EA).
QA	Suppos.	Suppository.
QB	Insert	Insert.
SA	Solution	Solution, Topical EENT
SB	Fl Extract	Fluid Extract
SC	Oral Susp	Suspension, Oral (final dose form) (ML).
SD	Douche	Douche.
SE	Elixir	Elixir
SF	Enema	Enema (ML).
SG	Enema	Enema (EA).
SH	Expect	Expectorant.
SI	Liniment	Liniment.
SJ	Solution	Solution, Oral.
SK	Lotion	Lotion (ML).
SL	Liquid	Liquid.
SM	Mouthwash	Mouthwash.
SN	Powder	Powder (ML).
SO	Drops	Drops.
SP	Spirit	Spirit.
SQ	Oil	Oil.
SR	Suspension	Suspension, Topical.
SS	Shampoo	Shampoo.
ST	Syrup	Syrup.
SU	Emulsion	Emulsion.
SV	Gran Eff	Grnules, Effervescent.
SW	Irrig Soln	Solution, Irrigating.
SX	Tincture	Tincture.
SY	Oral Conc	Concentrate, Oral.
SZ	Lotion	Lotion (GM).
TA	Tablet	Tablet (compressed, sugar coated caplets)
TB	Tablet Sol	Tablet, Soluble
TC	Tab Chew	Tablet, Chewable.
TD	Disk	Disk.
TE	Tablet EC	Tablet, Enteric Coated.
TF	Tablet, Eff	Tablet, Effervescent.
TG	Gum	Gum.
TH	Tablet Hyp	Tablet, Hypodermic.
TL	Lozenge	Lozenge.
TN	Granules	Granules, Oral Tablet-like or Packets.
TP	Pellet	Pellet.
TR	Tab Part	Particles in tablet, pH dependent.
TS	Tablet SA	Tablet, Sustained Action.
TT	Troche	Troche.
TU	Tab Subl	Tablet, Sublingual.
TV	Tab Buccal	Tablet, Buccal.
TW	Wafer	Wafer.
TX	Pill	Pill.
TY	Tab Buc SA	Tablet, Buccal Sustained Action.
UN	Unit	Unit.
WH	Whip	Whip.
YA	Needle	Needle, Reusable.
YB	Bulk	Bulk.
YC	Syringe	Syringe, Reusable.
YD	Diaphragm	Diaphragm.
YE	Dressing	Dressing.
YF	Lense	Lense.
YG	Gauze	Gauze, Non-Medicated.
YH	Dis Needle	Needle, Disposable.
YI	IUD	Intrauterine Device.

Dosage form	Description	Interpretation
YJ	Crwl Syrin	Syringe, Cornwall.
YK	Kit	Kit.
YL	Disp Syrin	Syring, Empty Disposable.
YM	Pad	Pad.
YN	Tampon	Tampon.
YP	IP Set	Intraperitoneal Admin. Sets—Paraphernalia.
YQ	IV Set	Intravenous Admin. Sets—Paraphernalia.
YR	Strip	Strip.
YS	Suture	Suture.
YT	Tape	Tape.
YU	Irrig Set	Irrigation Set.
YV	Sponge	Sponge.
YW	Swab	Swab, non-Medicated.
YX	IV Access	Intravenous Admixture Accessories.
YZ	Blood Set	Blood Administration Set.
ZA	Miscell	Miscellaneous.
ZB	Box	Box.
ZC	Bottle	Bottle.
ZD	Combo. Pkg	Combination Package.
ZE	Carton	Carton.
ZP	Package	Package.
ZT	Tray	Tray.

Explanations at end of docket.

E. High Cost Services Requested By External Providers[5]

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
0040	Chest, PA/Lat/Bilat Decub	$34	$68	$72
0063	Chest, Portable	35	70	74
0783	Bilat Ankles & Stress Views	41	82	87
1090	Bilat Hips & Dan Miller	43	85	90
1250	Skeletal Survey	120	240	254
1251	Skeletal Survey (Exam)	73	146	155
1252	Skeletal Survey (Read)	47	94	100
1253	Arthritic Survey	87	173	184
1254	Arthritic Survey (Exam)	55	110	117
1255	Arthritic Survey (Read)	32	64	67
1256	Metastatic Bone Survey	120	240	254
1257	Metastatic Bone Survey (Exam)	73	146	155
1258	Metastatic Bone Survey (Read)	47	94	100
3000	Upper GI Series	34	68	72
3003	UGI, Air Contrast	36	72	77
3046	UGI, Other	34	68	72
3050	Barium Enema	37	74	78
3053	BE, Air Contrast	50	100	106
3056	BE, Thru Colostomy	50	100	106
3096	BE, Other	37	74	78
3109	Enteroclysis	53	106	113
3110	Enteroclysis (Exam)	32	64	67
3133	Cholangiogram, Operative	51	102	108
3134	Cholangiogram, Operative (Exam)	38	76	80
3136	Cholangiogram, Transhepatic	100	200	213
3137	Cholangiogram, Transhepatic (E)	38	76	80
3138	Cholangiogram, Transhepatic (R)	63	125	132
3140	Cholangiogram, Percutaneous	100	200	213
3141	Cholangiogram, Percutaneous (E)	38	76	80
3142	Cholangiogram, Percutaneous (R)	63	125	132
3143	Percutaneous Biliary Drain	128	255	271
3144	Percutaneous Biliary Drain (E)	32	64	67
3145	Percutaneous Biliary Drain (R)	96	192	204
3160	ERCP	128	255	270
3161	ERCP (Exam)	32	64	67
3162	ERCP (Read)	96	191	203
3173	Bronchoscopy, Unilateral	55	109	116
3175	Bronchoscopy, Unilateral, (Read)	37	74	79
3176	Bronchoscopy, Bilateral	67	134	142
3178	Bronchoscopy, Bilateral, (Read)	40	80	86
3180	Hysterosalpingogram	40	80	85

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
3183	Fallopian Tube Dilatation	208	416	442
3184	Fallopian Tube Dilatation (E)	104	208	221
3185	Fallopian Tube Dilatation (R)	104	208	221
3200	Lymphangio, Bilat Extrem	236	471	501
3201	Lymphangio, Bilat Extrem (Exam)	125	250	265
3202	Lymphangio, Bilat Extrem (Read)	111	222	236
3203	Lymphangio, Extremity	132	263	279
3204	Lymphangio, Extremity (Exam)	63	125	132
3205	Lymphangio, Extremity (Read)	69	138	147
3210	Lymphangio, Pelvic, Unilat	132	263	279
3211	Lymphangio, Pelvic, Unilat (Exam)	63	125	132
3212	Lymphangio, Pelvic, Unilat (Read)	69	138	147
3213	Lymphangio, Pelvic, Bilat	236	471	500
3214	Lymphangio, Pelvic, Bilat (Exam)	125	250	265
3215	Lymphangio, Pelvic, Bilat (Read)	111	221	235
3216	Lymphangio, Abd, Unilat	132	263	279
3217	Lymphangio, Abd, Unilat (Exam)	63	125	132
3218	Lymphangio, Abd, Unilat (Read)	69	138	147
3220	Lymphangio, Abd, Bilat	236	471	500
3221	Lymphangio, Abd, Bilat (Exam)	125	250	265
3222	Lymphangio, Abd, Bilat (Read)	111	221	235
3230	Venogram, Bilat Extremity	133	265	281
3231	Venogram, Bilat Extremity (Exam)	92	183	194
3232	Venogram, Bilat Extremity (Read)	41	82	87
3233	Venogram, Lt Extremity	74	148	157
3234	Venogram, Lt Extremity (Exam)	46	92	97
3240	Venogram, Inf Cav W/Serial	116	231	246
3241	Venogram, Inf Cav W/Serial (E)	46	92	97
3242	Venogram, Inf Cav W/Serial (R)	70	140	148
3243	Venogram, Sup Cav W/Serial	116	231	246
3244	Venogram, Sup Cav W/Serial (E)	46	92	97
3245	Venogram, Sup Cav W/Serial (R)	70	140	148
3246	Venogram, Bilat Renal	191	381	405
3247	Venogram, Bilat Renal (Exam)	92	183	194
3248	Venogram, Bilat Renal (Read)	99	198	210
3250	Venogram, Lt Renal	126	252	268
3251	Venogram, Lt Renal ((Exam)	46	92	97
3252	Venogram, Lt Renal (Read)	80	160	170
3253	Venogram, Rt Renal	126	252	268
3254	Venogram, Rt Renal (Exam)	46	92	97
3255	Venogram, Rt Renal (Read)	80	160	170
3256	Venogram, Bilat Adrenal	191	381	405
3257	Venogram, Bilat Adrenal (Exam)	92	183	194
3258	Venogram, Bilat Adrenal (Read)	99	198	210
3260	Venogram, Lt Adrenal	126	252	268
3261	Venogram, Lt Adrenal (Exam)	46	92	97
3262	Venogram, Lt Adrenal (Read)	80	160	170
3263	Venogram, Rt Adrenal	126	252	268
3264	Venogram, Rt Adrenal (Exam)	46	92	97
3265	Venogram, Rt Adrenal (Read)	80	160	170
3266	Venogram, Azygos (Select)	126	252	268
3267	Venogram, Azygos (Select) (Exam)	46	92	97
3268	Venogram, Azygos (Select) (Read)	80	160	170
3270	Venogram, Azygos (Nonselect)	116	231	245
3271	Venogram, Azygos (Nonselect) (E)	46	92	97
3272	Venogram, Azygos (Nonselect) (R)	70	139	148
3273	Venogram, Intraosseous	91	182	193
3274	Venogram, Intraosseous (Exam)	46	92	97
3275	Venogram, Intraosseous (Read)	45	90	95
3276	Venogram, Sinus	126	252	268
3277	Venogram, Sinus (Exam)	46	92	97
3278	Venogram, Sinus (Read)	80	160	170
3280	Venogram, Jugular	126	252	268
3281	Venogram, Jugular (Exam)	46	92	97
3282	Venogram, Jugular (Read)	80	160	170
3283	Venogram, Sup Sag Sinus	101	202	215
3284	Venogram, Sup Sag Sinus (Exam)	46	92	97
3285	Venogram, Sup Sag Sinus (Read)	55	110	117
3286	Venogram, Epidural	126	252	268

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
3287	Venogram, Epidural (Exam)	46	92	97
3288	Venogram, Epidural (Read)	80	160	170
3290	Venogram, Orbital	74	148	157
3291	Venogram, Orbital (Exam)	46	92	97
3300	Perc Transhep Porto W/Hemo	219	437	464
3301	Perc Transhep Porto W/Hemo (E)	104	208	221
3302	Perc Transhep Porto W/Hemo (R)	115	229	243
3303	Perc Transhep Porto W/O Hemo	220	439	465
3304	Perc Transhep Porto W/O Hemo (E)	104	208	221
3305	Perc Transhep Porto W/O Hemo (R)	115	229	243
3310	Hepat Veno, Wed/Free W/Hemo	185	369	391
3311	Hepat Veno, Wed/Free W/Hemo (E)	104	208	221
3312	Hepat Veno, Wed/Free W/Hemo (R)	80	160	170
3313	Hepat Veno, Wed/Free W/O Hemo	185	369	391
3314	Hepat Veno, Wed/Free W/O Hemo (E)	104	208	221
3315	Hepat Veno, Wed/Free W/O Hemo (R)	80	160	170
3320	Venous Sampling Thru Cath	59	118	125
3321	Venous Sampling Thru Cath (E)	46	92	97
3330	Transcath TX, Embol W/Angio	273	545	579
3331	Transcath TX, Embol W/Angio (E)	104	208	221
3332	Transcath TX, Embol W/Angio (R)	169	337	358
3333	Transcath TX, Infus W/Angio	273	545	579
3334	Transcath TX, Infus W/Angio (E)	104	208	221
3335	Transcath TX, Infus W/Angio (R)	169	337	358
3340	Percu Place IVC Filter	268	535	567
3341	Percu Place IVC Filter (Exam)	83	166	177
3342	Percu Place IVC Filter (Read)	184	368	390
3350	Transcath Intrav Occ, Temp	273	545	579
3351	Transcath Intrav Occ, Temp (E)	104	208	221
3352	Transcath Intrav Occ, Temp (R)	169	337	358
3353	Transcath Intrav Occ, Perm	273	545	579
3354	Transcath Intrav Occ, Perm (E)	104	208	221
3355	Transcath Intrav Occ, Perm (R)	169	337	358
3356	Transcath Retriev, Perc, FX V/A	203	406	431
3357	Transcath Retriev, Perc, FX V/AE	104	208	221
3358	Transcath Retriev, Perc, FX V/AR	99	198	210
3360	Percu Transl Angio, Perip, Art	273	545	579
3361	Percu Transl Angio, Perip, Art (E)	104	208	221
3362	Percu Transl Angio, Perip, Art (R)	169	337	358
3363	Percu Transl Angio, q Ad Per	220	439	465
3364	Percu Transl Angio, q Ad Per (E)	104	208	221
3365	Percu Transl Angio, q Ad Per (R)	116	231	245
3366	Percu Transl Angio, Vicer A	308	614	652
3367	Percu Transl Angio, Vicer A (E)	104	208	221
3368	Percu Transl Angio, Vicer A (R)	203	406	431
3370	Transcath BX	173	345	367
3371	Transcath BX (Exam)	104	208	221
3372	Transcath BX (Read)	69	138	146
3380	Perc Transhep Bil Drain W/Con	219	437	464
3381	Perc Transhep Bil Drain W/Cone	104	208	221
3382	Perc Transhep Bil Drain W/Conr	115	229	243
3383	Per Pl Cath For Inop Bil Obs	247	493	524
3384	Per Pl Cath For Inop Bil Obse	104	208	221
3385	Per Pl Cath For Inop Bil Obsr	143	285	303
3400	Aortogram, Thoracic (Wo/Ser)	183	365	388
3401	Aortogram, Thoracic (Wo/Ser) (E)	104	208	221
3402	Aortogram, Thoracic (Wo/Ser) (R)	79	157	167
3403	Aortogram, Thoracic (W/Ser)	198	396	420
3404	Aortogram, Thoracic (W/Ser) (E)	104	208	221
3405	Aortogram, Thoracic (W/Ser) (R)	94	188	200
3406	Aortogram, Translum (W/Ser)	183	365	388
3407	Aortogram, Translum (Wo/Ser) (E)	104	208	221
3408	Aortogram, Translum (Wo/Ser) (R)	79	157	167
3410	Aortogram, Translum (W/Ser)	198	396	420
3411	Aortogram, Translum (W/Ser) (E)	104	208	221
3412	Aortogram, Translum (W/Ser) (R)	94	188	200
3413	Aortogram, Abd Cath (Wo/Ser)	183	365	388
3414	Aortogram, Abd Cath (Wo/Ser) (E)	104	208	221
3415	Aortogram, Abd Cath (Wo/Ser) (R)	79	157	167

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
3416	Aortogram, Abd Cath (W/Ser)	198	396	420
3417	Aortogram, Abd Cath (W/Ser) (E)	109	216	231
3418	Aortogram, Abd Cath (W/Ser) (R)	99	196	210
3420	Aortogr, Abd & Bil Ilfem, Cath	207	411	435
3421	Aortogr, Abd & Bil Ilfem, Cath (E)	109	216	231
3422	Aortogr, Abd & Bil Ilfem, Cath (R)	103	204	218
3430	Angiogram	213	423	448
3431	Angiogram (Exam)	109	216	231
3432	Angiogram (Read)	109	216	231
3433	Angiogram, Cerebral	228	452	478
3434	Angiogram, Cerebral (Exam)	109	216	231
3435	Angiogram, Cerebral (Read)	124	246	261
3436	Angiogram, Angioplasty (Art)	213	423	448
3437	Angiogram, Angioplasty (Art)(Ex)	109	216	231
3438	Angiogram, Angioplasty (Art)(Re)	109	216	231
3440	Angiogram, Angioplasty (Ven)	213	423	448
3441	Angiogram, Angioplasty (Ven)(Ex)	109	216	231
3442	Angiogram, Angioplasty (Ven)(Re)	109	216	231
3443	Angiogram, Pulmonary	232	460	487
3444	Angiogram, Pulmonary (Exam)	109	216	231
3445	Angiogram, Pulmonary (Read)	128	254	270
3446	Angiogram, Venous Phase	155	309	328
3447	Angiogram, Venous Phase (Exam)	104	208	221
3448	Angiogram, Venous Phase (Read)	50	100	107
3450	Angiogram, Vena Cava	219	437	464
3451	Angiogram, Vena Cava (Exam)	104	208	221
3452	Angiogram, Vena Cava (Read)	115	229	243
3453	Angiogram, Portal Vein	240	479	508
3454	Angiogram, Portal Vein (Exam)	104	208	221
3455	Angiogram, Portal Vein (Read)	136	271	287
3456	Angiogram, Renal Vein	240	479	508
3457	Angiogram, Renal Vein (Exam)	104	208	221
3458	Angiogram, Renal Vein (Read)	136	271	287
3460	Angiogram, Renal Vein Renins	208	416	442
3461	Angiogram, Renal Vein Renins (E)	104	208	221
3462	Angiogram, Renal Vein Renins (R)	104	208	221
3463	Angiogram, Subclavian Vein	208	416	442
3464	Angiogram, Subclavian Vein (Ex)	104	208	221
3465	Angiogram, Subclavian Vein (Re)	104	208	221
3466	Angiogram, Testicular	208	416	442
3467	Angiogram, Testicular (Exam)	104	208	221
3468	Angiogram, Testicular (Read)	104	208	221
3470	Angiogram, Embolization	208	416	442
3471	Angiogram, Embolization (Exam)	104	208	221
3472	Angiogram, Embolization (Read)	104	208	221
3473	Angiogram, Cerebral	223	445	473
3474	Angiogram, Cerebral (Exam)	104	208	221
3475	Angiogram, Cerebral (Read)	119	237	252
3490	Angiogram, Ea Add Run	42	84	88
3500	Arteriogram, Lt Carotid	208	416	442
3501	Arteriogram, Lt Carotid (Exam)	104	208	221
3502	Arteriogram, Lt Carotid (Read)	104	208	221
3503	Arteriogram, Lt Vertebral	208	416	442
3504	Arteriogram, Lt Vertebral (Exam)	104	208	221
3505	Arteriogram, Lt Vertebral (Read)	104	208	221
3506	Arteriogram, Lt Carot & Vert	313	624	662
3507	Arteriogram, Lt Carot & Vert (E)	208	416	442
3508	Arteriogram, Lt Carot & Vert (R)	104	208	221
3510	Arteriogram, Rt Carotid	208	416	442
3511	Arteriogram, Rt Carotid (Exam)	104	208	221
3512	Arteriogram, Rt Carotid (Read)	104	208	221
3513	Arteriogram, Rt Vertebral	208	416	442
3514	Arteriogram, Rt Vertebral (Exam)	104	208	221
3515	Arteriogram, Rt Vertebral (Read)	104	208	221
3516	Arteriogram, Rt Carot & Vert	313	624	662
3517	Arteriogram, Rt Carot & Vert (E)	208	416	442
3518	Arteriogram, Rt Carot & Vert (R)	104	208	221
3520	Arteriogram, Bilat Carotid	313	624	662
3521	Arteriogram, Bilat Carotid (Exam)	208	416	442

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
3522	Arteriogram, Bilat Carotid (Read)	104	208	221
3523	Arteriogram, Bilat Vertebral	313	624	662
3524	Arteriogram, Bilat Vertebral (E)	208	416	442
3525	Arteriogram, Bilat Vertebral (R)	104	208	221
3526	Arteriogram, Bilat Carot & Ver	417	832	883
3527	Arteriogram, Bilat Carot & Ver (Ex)	313	624	662
3528	Arteriogram, Bilat Carot & Ver (Re)	104	208	221
3530	Arteriogram, Brachial	208	416	442
3531	Arteriogram, Brachial (Exam)	104	208	221
3532	Arteriogram, Brachial (Read)	104	208	221
3533	Arteriogram, Subclavian	208	416	442
3534	Arteriogram, Subclavian (Exam)	104	208	221
3535	Arteriogram, Subclavian (Read)	104	208	221
3536	Arteriogram, Gastroduodenal	208	416	442
3537	Arteriogram, Gastroduodenal (E)	104	208	221
3538	Arteriogram, Gastroduodenal (R)	104	208	221
3540	Arteriogram, Lt Gastric	208	416	442
3541	Arteriogram, Lt Gastric (Exam)	104	208	221
3542	Arteriogram, Lt Gastric (Read)	104	208	221
3543	Arteriogram, Hepatic	208	416	442
3544	Arteriogram, Hepatic (Exam)	104	208	221
3545	Arteriogram, Hepatic (Read)	104	208	221
3546	Arteriogram, Celiac Axis	208	416	442
3547	Arteriogram, Celiac Axis (Exam)	104	208	221
3548	Arteriogram, Celiac Axis (Read)	104	208	221
3550	Arteriogram, Iliac	208	416	442
3551	Arteriogram, Iliac (Exam)	104	208	221
3552	Arteriogram, Iliac (Read)	104	208	221
3553	Arteriogram, IMA	208	416	442
3554	Arteriogram, IMA (Exam)	104	208	221
3555	Arteriogram, IMA (Read)	104	208	221
3556	Arteriogram, SMA	208	416	442
3557	Arteriogram, SMA (Exam)	104	208	221
3558	Arteriogram, SMA (Read)	104	208	221
3560	Arteriogram, IMA & SMA	313	624	662
3561	Arteriogram, IMA & SMA (Exam)	208	416	442
3562	Arteriogram, IMA & SMA (Read)	104	208	221
3563	Arteriogram, Renal	208	416	442
3564	Arteriogram, Renal (Exam)	104	208	221
3565	Arteriogram, Renal (Read)	104	208	221
3566	Arteriogram, Femoral Runoff	208	416	442
3567	Arteriogram, Femoral Runoff (E)	104	208	221
3568	Arteriogram, Femoral Runoff (R)	104	208	221
3576	Arteriogram/Intervent, Other	208	416	442
3577	Arteriogram/Intervent, Oth (E)	104	208	221
3578	Arteriogram/Intervent, Oth (R)	104	208	221
3600	IVP	32	64	67
3603	IVP, Hypertensive	35	69	73
3610	IVP, Infusion	35	70	74
3613	IVP, Retrograde	40	79	84
3614	IVP, Retrograde (Exam)	32	64	67
3616	IVP W/Tomograms	37	74	79
3620	Renal Cyst Puncture	146	291	308
3621	Renal Cyst Puncture (Exam)	83	166	177
3622	Renal Cyst Puncture (Read)	62	124	132
3623	Nephrostomy	225	449	477
3624	Nephrostomy (Exam)	104	208	221
3625	Nephrostomy (Read)	121	241	256
3626	Nephrotomograms, No Contrast	54	108	115
3627	Nephrotomograms, No Contrast (E)	42	84	88
3630	Nephrostogram	225	449	477
3631	Nephrostogram (Exam)	104	208	221
3632	Nephrostogram (Read)	121	241	256
3636	Cystogram, Retrograde	32	64	68
3640	Cystogram, Vcug	35	70	74
3643	Cystogram, Chain	32	64	68
3646	Urethrogram, Retrograde	32	64	68
3650	Peri-Urethrogram	32	64	68
3653	Basket Extraction	208	416	442

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
3654	Basket Extraction (Exam)	104	208	221
3655	Basket Extraction (Read)	104	208	221
3656	Stent Replacement/Removal	104	208	221
3673	Mammogram, (Localization)	55	109	116
3674	Mammogram, (Localization) (Exam)	32	64	67
3676	Mammillary Stereotaxic Biopsy	53	105	111
3677	Mammillary Stereotaxic Biop (E)	32	64	67
3693	Mammogram, Bilat (Localize)	80	160	170
3694	Mammogram, Bilat (Localize) (Ex)	45	89	95
3695	Mammogram, Bilat (Localize) (Re)	36	72	76
3696	Mammillary Ductogram, Bilat	70	140	149
3697	Mammillary Ductogram, Bilat (Exam)	44	88	94
3700	Myelogram, Cervical	128	256	272
3701	Myelogram, Cervical (Exam)	49	98	104
3702	Myelogram, Cervical (Read)	79	158	168
3703	Myelgram, Thoracic	128	256	272
3704	Myelogram, Thoracic (Exam)	49	98	104
3705	Myelogram, Thoracic (Read)	79	158	168
3706	Myelogram, Lumbar	126	252	268
3707	Myelogram, Lumbar (Exam)	47	94	100
3708	Myelogram, Lumbar (Read)	79	158	168
3713	Myelogram, Other	128	256	272
3714	Myelogram, Other (Exam)	49	98	104
3715	Myelogram, Other (Read)	79	158	168
3716	Arthrogram, Wrist	48	96	102
3720	Arthrogram, Elbow	55	109	116
3723	Arthrogram, Shoulder	55	109	116
3726	Arthrogram, Ankle	55	109	116
3730	Arthrogram, Knee	64	128	135
3731	Arthrogram, Knee (Exam)	32	64	67
3732	Arthrogram, Knee (Read)	32	64	68
3733	Arthrogram, Hip	55	109	116
3736	Arthrogram, TMJ	60	120	128
3738	Arthrogram, TMJ (Read)	35	70	74
3770	Sialogram	45	89	95
3773	Sialogram, Parotidm	45	89	95
3776	Sialogram, Submandibular	45	89	95
3780	Laryngogram	48	95	101
3790	Sinogram	58	116	124
3792	Sinogram (Read)	42	84	88
3800	Fistulagram	58	116	124
3802	Fistulagram, (Read)	42	84	88
3810	Dacrocystogram, (Bilat)	65	130	138
3812	Dacrocystogram, (Bilat) (Read)	43	85	90
3813	Dacrocystogram, Unilat	33	65	69
3896	Specials, Other	58	116	124
3897	Specials, Other (Exam)	42	84	88
3898	Special, Other (Read)	58	116	124
3980	Tomogram, Single Plane	54	108	115
3981	Tomogram, Single Plane (Exam)	42	84	88
3983	Tomogram, Cmplx Motion (Unil)	108	216	230
3984	Tomogram, Cmplx Motion (Unil) (E)	83	166	177
3986	Tomogram, Cmplx Motion (Bilat)	125	250	265
3987	Tomogram, Cmplx Motion (Bilat) (E)	100	200	212
4000	US, Head	37	74	79
4100	US, Pelvis	35	69	73
4120	US, Kidney (Unilat)	41	82	87
4126	US, Bilat Kidney	58	115	122
4127	US, Bilat Kidney (Exam)	32	64	68
4140	US, Pancreas	43	85	90
4160	US, Spleen	43	85	90
4180	US, Liver	43	85	90
4200	US, Breast (Bilat)	51	192	108
4210	US, Superficial Lesions	37	74	79
4300	US, Knee (Bilat)	62	123	131
4301	US, Knee (Bilat) (Exam)	33	66	71
4400	US. Abdominal Aorta	43	85	90
4440	US, Iliacs	37	74	79
4480	US, Renals	41	82	87

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
4520	US, Abdomen (Complete)	93	185	196
4521	US, Abdomen (Complete) (Exam)	50	100	106
4522	US, Abdomen (Complete) (Read)	43	85	90
4540	US, Testicular	33	66	71
4560	US, Gall Bladder	43	85	90
4563	US, Biliary Ducts	43	85	90
4580	US, Pelvis	35	69	73
4600	US, OB	48	96	102
4620	US, Gestational Age	38	75	79
4640	US, Fetal Evaluation	42	84	88
4660	US, Amniocentesis	61	122	129
4662	US, Amniocentesis (Read)	43	85	90
4700	US, Dynamic Mass Study	124	247	262
4702	US, Dynamic Mass Study (Read)	105	210	223
4720	US, Cyst Aspiration	84	167	177
4722	US, Cyst Aspiration (Read)	65	130	137
4726	US, Thoracenthesis	56	112	119
4728	US, Thoracenthesis (Read)	38	75	79
4729	US, Biopsy	83	166	176
4731	US, Biopsy (Read)	65	130	139
4996	US, Other	35	69	73
5000	CT, Head/Brain (W/O Contrast)	83	166	176
5001	CT, Head/Brain (W/O Contrast) (E)	63	126	135
5003	CT, Head/Brain (W/Contrast)	102	204	217
5004	CT, Head/Brain (W/Contrast) (Ex)	76	152	161
5006	CT, Head/Brain (W W/O Contrast)	166	332	352
5007	CT, Head/Brain (W W/O Contrast) (E)	95	190	202
5020	CT, Post Fossa (W/O Contrast)	93	186	197
5021	CT, Post Fossa (W/O Contrast) (E)	63	126	134
5023	CT, Post Fossa (W/Contrast)	108	216	230
5024	CT, Post Fossa (W/Contrast) (Ex)	76	152	161
5025	CT, Post Fossa (W/Contrast) (Re)	32	64	68
5026	CT, Post Fossa (W/Wo Contrast)	129	257	273
5027	CT, Post Fossa (W/Wo Contrast) E	95	190	202
5028	CT, Post Fossa (W/Wo Contrast) R	34	68	72
5040	CT, Sella Wo/Contrast	93	186	196
5041	CT, Sella Wo/Contrast (Exam)	63	126	134
5043	CT, Sella W/Contrast	108	216	228
5044	CT, Sella W/Contrast (Exam)	76	152	161
5045	CT, Sella W/Contrast (Read)	32	64	69
5046	CT, Sella Wo/W Contrast	129	257	273
5047	CT, Sella Wo/W Contrast (Exam)	95	190	202
5048	CT, Sella Wo/W Contrast (Read)	34	68	73
5080	CT, Orbits Wo/Contrast	93	186	197
5081	CT, Orbits Wo/Contrast (Exam)	63	126	134
5083	CT, Orbits W/Contrast	93	186	197
5084	CT, Orbits W/Contrast (Exam)	63	126	134
5086	CT, Orbits Wo/W Contrast	129	257	273
5087	CT, Orbits Wo/W Contrast (Exam)	95	190	202
5088	CT, Orbits Wo/W Contrast (Read)	34	68	73
5100	CT, Sinus Wo/ Contrast	90	179	190
5101	CT, Sinus Wo/Contrast (Exam)	63	126	134
5103	CT, Sinus W/Contrast	106	212	225
5104	CT, Sinus W/Contrast (Exam)	76	152	161
5106	CT, Sinus Wo/W Contrast	128	256	272
5107	CT, Sinus Wo/W Contrast (Exam)	95	190	201
5108	CT, Sinus Wo/W Contrast (Read)	33	66	70
5120	CT, IAMS/IACS Wo/Contrast	93	186	196
5121	CT, IAMS/IACS Wo/Contrast (Exam)	63	126	134
5123	CT, IAMS/IACS W/Contrast	108	216	230
5124	CT, IAMS/IACS W/Contrast (Exam)	76	152	161
5125	CT, IAMS/IACS W/Contrast (Read)	32	64	68
5126	CT, IAMS/IACS Wo/W Contrast	129	257	274
5127	CT, IAMS/IACS Wo/W Contrast (E)	95	190	202
5128	CT, IAMS/IACS Wo/W Contrast (R)	34	68	72
5140	CT, Facial Wo/Contrast	90	179	190
5141	CT, Facial Wo/Contrast (Exam)	63	126	134
5143	CT, Facial W/Contrast	106	212	225
5144	CT, Facial W/Contrast (Exam)	76	152	161

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
5146	CT, Facial W/Wo Contrast	128	256	273
5147	CT, Facial W/Wo Contrast (Exam)	95	190	202
5148	CT, Facial W/Wo Contrast (Read)	33	66	70
5160	CT, Coronals Wo/Contrast	83	166	176
5161	CT, Coronals Wo/Contrast (Exam)	63	126	134
5163	CT, Coronals W/Contrast	102	204	217
5164	CT, Coronals W/Contrast (Exam)	76	152	160
5166	CT, Coronals Wo/W Contrast	125	249	264
5167	CT, Coronals Wo/W Contrast (Ex)	95	190	201
5170	CT, Temporals Wo/Contrast	93	186	197
5171	CT, Temporals Wo/Contrast (Exam)	63	126	135
5173	CT, Temporals W/Contrast	106	212	225
5174	CT, Temporals W/Contrast (Exam)	76	152	161
5175	CT, Temporals W/Contrast (Read)	32	64	69
5176	CT, Temporals Wo/W Contrast	129	257	273
5177	CT, Temporals Wo/W Contrast (E)	95	190	202
5178	CT, Temporals Wo/W Contrast (R)	34	68	72
5200	CT, Brain Biopsy	129	257	273
5201	CT, Brain Biopsy (Exam)	95	190	202
5202	CT, Brain Biopsy (Read)	34	68	72
5300	CT, Chest	151	301	321
5301	CT, Chest (Exam)	119	237	252
5302	CT, Chest (Read)	32	64	68
5303	CT, Chest Biopsy	151	301	320
5304	CT, Chest Biopsy (Exam)	119	237	252
5305	CT, Chest Biopsy (Read)	32	64	68
5400	CT, C-Spine Wo/Contrast	106	212	224
5401	CT, C-Spine Wo/Contrast (Exam)	79	158	168
5403	CT, C-Spine W/Contrast	165	329	348
5404	CT, C-Spine W/Contrast (Exam)	95	190	202
5406	CT, C-Spine Wo/W Contrast	148	296	315
5407	CT, C-Spine Wo/W Contrast (Exam)	119	237	252
5420	CT, T-Spine Wo/Contrast	106	212	225
5421	CT, T-Spine Wo/Contrast (Exam)	79	158	169
5423	CT, T-Spine W/Contrast	123	246	261
5424	CT, T-Spine W/Contrast (Exam)	95	190	202
5426	CT, T-Spine Wo/W Contrast	148	296	314
5427	CT, T-Spine Wo/W Contrast (Exam)	119	237	252
5440	CT, L-Spine Wo/Contrast	106	212	225
5441	CT, L-Spine Wo/Contrast (Exam)	79	158	168
5443	CT, L-Spine W/Contrast	123	246	262
5444	CT, L-Spine W/Contrast (Exam)	95	190	202
5446	CT, L-Spine Wo/W Contrast	148	296	314
5447	CT, L-Spine Wo/W Cntrst (E)	119	237	252
5463	CT, Spinal Stenosis	123	246	261
5464	CT, Spinal Stenosis (Exam)	95	190	202
5500	CT, Routine ABD Wo/Contrast	103	206	218
5501	CT, Routine ABD Wo/Cntrst (E)	76	152	161
5503	CT, Routine ABD W/Contrast	121	242	256
5504	CT, Routine ABD W/Cntrst (E)	92	183	194
5506	CT, Routine ABD Wo/W Contrast	147	293	312
5507	CT, Routine ABD Wo/W Cntrst (E)	114	227	241
5508	CT, Routine ABD Wo/W Cntrst (R)	33	66	70
5523	CT, Invasive Procedure	187	373	397
5524	CT, Invasive Procedure (Exam)	111	221	235
5525	CT, Invasive Procedure (Read)	77	153	162
5540	CT, Liver W/O Contrast	103	206	219
5541	CT, Liver W/O Contrast (Exam)	76	152	161
5543	CT, Liver W Contrast	121	242	257
5544	CT, Liver W Contrast (Exam)	92	183	194
5546	CT, Liver Wo/W Contrast	147	293	312
5547	CT, Liver Wo/W Contrast (Exam)	114	227	241
5548	CT, Liver Wo/W Contrast (Read)	33	66	70
5560	CT, Pancreas Wo/Contrast	103	206	219
5561	CT, Pancreas Wo/Contrast (Exam)	76	152	161
5563	CT, Pancreas Wo/Contrast	121	242	257
5564	CT, Pancreas Wo/Contrast (Exam)	92	183	193
5566	CT, Pancreas Wo/Contrast	147	293	311
5567	CT, Pancreas Wo/Contrast (Ex)	114	227	240

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
5568	CT, Pancreas Wo/Contrast (RE)	33	66	70
5580	CT, Kidney Wo/Contrast	103	206	220
5581	CT, Kidney Wo/Contrast (Exam)	76	152	161
5583	CT, Kidney W/Contrast	121	242	257
5584	CT, Kidney W/Contrast (Exam)	92	183	195
5586	CT, Kidney Wo/W Contrast	147	293	311
5587	CT, Kidney Wo/W Contrast (Exam)	114	227	241
5588	CT, Kidney Wo/W Contrast (Read)	33	66	70
5600	CT, Pelvis Wo/Contrast	103	206	219
5601	CT, Pelvis Wo/Contrast (Exam)	76	152	161
5603	CT, Pelvis W/Contrast	121	242	257
5604	CT, Pelvis W/Contrast (Exam)	92	183	195
5606	CT, Pelvis Wo/W Contrast	147	293	311
5607	CT, Pelvis Wo/W Contrast (Exam)	114	227	241
5608	CT, Pelvis Wo/W Contrast (Read)	33	66	70
5700	CT, Extremity Wo/Contrast	92	183	194
5701	CT, Extremity Wo/Contrast (Exam)	66	132	140
5703	CT, Extremity W/Contrast	106	212	224
5704	CT, Extremity W/Contrast (Exam)	79	158	168
5706	CT, Extremity Wo/W Contrast	128	255	270
5707	CT, Extremity Wo/W Contrast (E)	100	199	211
5720	CT, Ortho Bone Study	45	90	97
5721	CT, Ortho Bone Study (Exam)	40	79	84
5800	CT, Reconstruction	142	283	300
5820	CT, Review	71	142	152
5840	CT, Therapy Planning	142	283	300
5996	CT, Other	154	308	327
5997	CT, Other (Exam)	83	166	176
5998	CT, Other (Read)	71	142	151
6009	Thyroid Scn/Upt, Single Det	40	80	85
6012	Thy Scn/Upt, Mult Det	43	86	91
6018	Thyroid Image W/Flow	40	80	86
6021	Thy Metascan: Ltd Area	47	93	99
6024	Parathyroid	43	86	91
6027	Thy Metascan: Mult Areas	65	130	138
6028	Thy Metascan: Mult Areas (E)	45	90	96
6030	Thy Metascan: Whole Body	88	175	186
6031	Thy Metascan: Whole Body (E)	65	130	137
6033	Adrenal Image: Cortical	83	166	176
6034	Adrenal Image: Cortical (E)	65	130	137
6036	Bone Marrow Image: Ltd Area	38	75	80
6039	Bone Marrow Image: Multi Area	56	112	120
6040	Bone Marrow Image: Multi Area (E)	38	76	81
6042	Bone Marrow Image: Whole Body	68	135	143
6043	Bone Marrow Image: Whole Body (E)	49	98	105
6048	Plasma Volume Mult Sample	36	72	76
6054	Red Cell Vol Mult Sample	43	85	90
6055	Red Cell Vol Mult Sample (E)	35	70	74
6057	WB Vol: W/Plasma & RBC Vol	66	132	140
6058	WB Vol: W/Plasma & RBC Vol (E)	56	112	119
6060	Red Cell Survival Study	49	98	104
6061	Red Cell Survival Study (E)	35	69	74
6063	RBC Surv: W/Spleen & Hep Sequest	74	147	156
6064	RBC Surv: W/Spleen & Hep Seq (E)	59	118	125
6066	RBC Spleen & Hepatic Sequest	62	123	131
6067	RBC Spleen & Pepatic Seq (E)	48	95	101
6069	Plasma Iron Disappearance	52	103	109
6070	Plasma Iron Disapp (E)	44	88	92
6072	Iron Oral Absorption	49	98	104
6073	Iron Oral Absorption (E)	39	78	82
6075	Iron Red Cell Utilization	74	147	156
6076	Iron Red Cell Util (E)	64	128	137
6078	Spleen Imaging Only	38	75	80
6081	Spleen Imaging Only: W/Flow	46	92	98
6082	Spleen Imaging Only: W/Flow (E)	35	70	75
6084	Platelet Survival	103	206	219
6085	Platelet Survival (E)	89	177	188
6087	WBC Localization: LTD	60	119	126
6088	WBC Localization: LTD (E)	41	82	87

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
6090	WBC Localization: Whole Body	138	276	293
6091	WBC Localization: Whole Body (E)	118	235	249
6093	Rad Nuclide Lymphangiogram	65	130	139
6094	Rad Nuclide Lymphangiogram (E)	49	98	104
6096	Liver Imaging: Static	39	78	83
6099	Liver Imaging: W/Flow	47	94	100
6100	Liver Imaging: W/Flow (E)	35	70	74
6102	Liver Imaging: Spect	88	176	186
6103	Liver Imaging: Spect (E)	71	142	151
6105	Liver/Spleen Imaging: Static	47	94	100
6106	Liver/Spleen Imag: Static (E)	35	70	75
6108	Liver/Spleen Imaging: Flow	55	110	117
6109	Liver/Spleen Imaging: Flow (E)	42	84	89
6111	Liver FXN: W/Hepbil Agent/Dyn	57	113	120
6112	Liver FXN: W/Hepbil Agnt/Dyn (E)	45	90	95
6114	Hepatobiliary: Duct & GB	64	128	135
6115	Hepatobiliary: Duct & GB (E)	44	88	94
6117	Liver-Lung Imaging	60	120	128
6118	Liver-Lung Imaging (E)	48	96	102
6120	Salivary Gland: Static Only	37	74	79
6123	Salivary Gland: Dynamic	50	100	107
6124	Salivary Gland: Dynamic (E)	38	76	81
6126	Salivary Gland: Function	54	108	114
6127	Salivary Gland: Function (E)	43	85	90
6129	Esophageal Motility	52	104	110
6130	Esophageal Motility (E)	35	70	74
6132	Gastric Mucosa Imaging	65	130	139
6133	Gastric Mucosa Imaging (E)	49	98	104
6135	Gastroesophageal Study	67	134	142
6136	Gastroesophageal Study (E)	51	102	109
6138	Gastric Emptying Study	68	136	144
6139	Gastric Emptying Study (E)	50	99	105
6147	Schillings Stage 1 & 2 (Dicopac)	34	68	72
6150	GI ASP Blood Loss Loc	55	110	117
6151	GI ASP Blood Loss Loc (E)	39	78	82
6153	Acute GI Blood Loss Imaging	82	163	173
6154	Acute GI Blood Loss Imaging (E)	59	118	125
6156	GI Blood Loss: Stool Count	48	96	102
6157	GI Blood Loss: Stool Count (E)	39	78	83
6159	Bowel Imag (ECT Meckels)	53	106	112
6160	Bowel Imag (ECT Meckels) (E)	37	74	78
6162	Perit-Venous Shunt (Leveen)	58	115	122
6163	Perit-Venous Shunt (Leveen) (E)	33	66	71
6165	Bone Imaging: LTD Area	45	89	95
6168	Bone Imaging: Multi Area	63	126	134
6169	Bone Imaging: Multi Area (E)	44	88	94
6171	Bone Imaging: Whole Body	70	140	149
6172	Bone Imaging: Whole Body (E)	52	103	110
6177	Bone, 3 Phase	78	156	166
6178	Bone, 3 Phase (E)	58	115	122
6180	Bone Spect	95	190	202
6181	Bone Spect (E)	71	142	151
6189	Joint Imaging, Ltd Area	46	92	98
6190	Joint Imaging, Ltd Area (E)	34	68	72
6192	Joint Imaging, Multi Area	61	122	129
6193	Joint Imaging, Multi Area (E)	43	86	92
6195	Card Blood Pool, FXN Imag	43	86	92
6196	Card Blood Pool, FXN Imag (E)	33	65	69
6201	Cardiac Shunt Detection	45	90	96
6204	Cardiac Flow (Angiocard)	55	110	117
6205	Cardiac Flow (Angiocard) (E)	44	88	93
6207	Vascular Flow (Venography)	34	68	72
6210	VEN Thrombosis (Fibrinogen)	65	130	138
6211	VEN Thrombosis (Fibrinogen) (E)	48	96	102
6213	Rad Nuc Venogram: Unilat	50	100	106
6214	Rad Nuc Venogram: Unilat (E)	32	64	68
6216	Rad Nuc Venogram: Bilat	69	138	147
6217	Rad Nuc Venogram: Bilat (E)	48	96	102
6219	Myocard Perf/Qual Rest	49	98	103

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
6222	Myoc Perf/Qual, RE&EX/Pharm	86	172	182
6223	Myoc Perf/Qual, RE&EX/Pharm (E)	57	114	121
6225	Myocard Perf/Quant Rest	62	123	131
6226	Myocard Perf/Quant Rest (E)	40	80	86
6228	Yoc Perf/Quant RE&EX/Pharm	101	202	215
6229	Myoc Perf/Quant RE&EX/Pharm (E)	71	142	151
6231	Myocard Perf/Spect Rest	111	221	235
6232	Myocard Perf/Spect Rest (E)	85	170	181
6234	Myoc Perf/Spect RE&EX/Pharm	176	352	374
6235	Myoc Perf/Spect RE&EX/Pharm (E)	143	285	302
6236	Myoc Perf/Spect RE&EX/Pharm (R)	34	68	72
6237	Myocard Imfarct IMG: Qual	48	96	102
6238	Myocard Imfarct IMG: Qual (E)	32	64	67
6240	Myocard Imfarct IMG: Quant	55	110	117
6241	Myocard Imfarct IMG: Quant (E)	38	76	80
6243	Myoc Infarct IMG: W/1St Pass	63	126	133
6244	Myoc Infarct IMG: W/1St Pass (E)	44	88	94
6246	Myoc Infarct Img: Spect	85	169	179
6247	Myco Infarct Img: Spect (E)	63	126	134
6249	Cardiac Output	55	110	117
6250	Cardiac Output (E)	45	89	95
6252	Gated Rest: Wall MTN&EF	85	170	180
6253	Gated Rest: Wall MTN&EF (E)	63	126	134
6255	Gated Rest: Wall MTN&REG EF	89	178	189
6256	Gated Rest: Wall MTN&REG EF (E)	66	132	140
6258	Gtd Rest: Wall MTN, REG EF, VV	97	193	205
6259	Gtd Rest: Wall MTN, REG EF, VV (E)	73	146	155
6261	Gated Ex/Phrm: Quan, Wall MTN	142	283	300
6262	Gated Ex/Phrm: Quan, Wall MTN (E)	114	227	241
6264	Gtd Rst, Ex/Phrm: Wall MTN, EF	147	294	312
6265	Gtd Rst, Ex/Phrm: Wall MTN EF (E)	120	239	254
6267	Gtd Rst, Ex/Phrm: Wm, EF, VV	160	319	338
6268	Gtd Rst, Ex/Phrm: Wm, EF, VV (E)	131	261	277
6273	1st Pass, Wall MTN&EF	86	172	183
6274	1st Pass, Wall MTN&EF (E)	63	126	134
6276	1st Pass, Wall MTN, EF, VVD	97	193	205
6277	1st Pass, Wall MTN, EF, VVD (E)	73	146	155
6279	1st Pass, Ex/Pharm, Wl MTN	142	283	300
6280	1st Pass, Ex/Pharm, Wl MTN (E)	114	227	241
6282	1st Pass, Ex/Ph, Wl MTN, VV	147	294	312
6283	1st Pass, Ex/Ph, Wl MTN, VV (E)	120	239	254
6285	1st Pass, Ex/Ph, Wl MTN, EF, VV	160	319	338
6286	1st Pass, Ex/Ph, Wl MTN, EF, VV (E)	131	261	277
6288	1st Pass, Rest, Ser, Any Comb	63	125	132
6289	1st Pass, Rest Ser, Any Comb (E)	42	84	88
6291	Lung Perf, Particulate	59	118	125
6292	Lung Perf, Particulate (E)	41	82	87
6294	Lung Perf, Gaseous	45	90	95
6297	Lung Perf: Gas W/VNT, EQ, W/O	67	133	141
6298	Lung Perf: Gas W/VNT, EQ, W/O (E)	45	90	96
6300	Lung Perf: Part, VNT, 1br	62	123	131
6301	Lung Perf: Part, VNT, 1br (E)	39	78	82
6303	V/Q Part, Full Study	93	186	198
6304	V/Q Part, Full Study (E)	68	136	144
6306	Pulm Aerosol, 1view	40	80	86
6309	Pulm Aerosol, Mult View	45	90	96
6310	Pulm Aerosol, Mult View (E)	34	68	72
6312	Pulm Vent, 1br, 1view	44	88	93
6313	Pulm Vent, 1br, 1view (E)	35	69	73
6315	Pulm Vent, W/1br, EQ, W/O, 1view	53	106	113
6316	Pulm Vent, W/1br, EQ, W/O, 1v (E)	42	84	88
6318	Pul Ven, W/1br, EQ, W/O, Mult V	71	142	150
6319	Pul Ven, W/1br, Eq, W/O, Mult V (E)	60	120	127
6321	Brain, Ltd, Static Only	45	90	95
6322	Brain, Ltd, Static Only (E)	35	70	74
6324	Brain, Flow & Scan, Ltd	53	106	113
6325	Brain Flow & Scan, Ltd (E)	41	82	87
6327	Brain Complete, Static Only	54	108	114
6328	Brain Complete, Static Only (E)	41	82	87

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
6330	Brain Flow & Scan, Complete	62	123	131
6331	Brain Flow & Scan, Complete (E)	47	93	99
6333	Brain Spect Complete	108	216	229
6334	Brain Spect Complete (E)	79	158	168
6339	Cerebral Blood Flow	56	112	119
6340	Cerebral Blood Flow (E)	47	93	99
6342	CSF Flow, W/O Intro, Cisterno	77	153	163
6343	CST Flow, W/O Intro, Cisterno (E)	61	122	129
6345	CSF Flow Ventriculography	45	90	95
6348	CSF Flow Shunt Eval	55	110	117
6349	CSF Flow Shunt Eval (E)	41	82	87
6351	CSF leak Detection & Localize	70	140	149
6352	CSF Leak Detection & Localize (E)	56	112	118
6354	CSF Flow Spect	92	184	195
6355	CSF Flow Spect (E)	71	142	151
6357	Radionucl ID of Eye Tumor	73	146	155
6358	Radionucl ID of Eye Tumor (E)	60	120	127
6360	Dacrocystography	38	76	81
6363	Renal Static Only	47	94	100
6364	Renal Static Only (E)	37	74	78
6366	Renal W/Flow	55	109	116
6367	Renal W/Flow (E)	43	86	91
6369	Renal W/Funct (EG IM Reno)	65	130	138
6370	Renal W/Funct (EG IM Reno) (E)	48	96	102
6372	Renal W/Flow & Funct	76	152	161
6373	Renal W/Flow & Funct (E)	54	108	115
6375	Renal Spect	87	173	184
6376	Renal Spect (E)	71	142	151
6384	Renal Funct W/Pharm Interv	56	112	119
6385	Renal Funct W/Pharm Interv (E)	36	72	76
6387	Renal Transplant Eval	71	142	151
6388	Renal Transplant Eval (E)	48	96	102
6396	Testicular Imaging	48	95	101
6397	Testicular Imaging (E)	32	64	68
6400	Testicular Imaging W/Flow (E)	39	78	82
6402	Tumor Localization, Ltd	56	112	119
6403	Tumor Localization, Ltd (E)	41	82	87
6405	Tumor Locatization Mult Area	69	138	147
6406	Tumor Locatization Mult Area (E)	51	102	108
6408	Tumor Local Whole Body	87	174	185
6409	Tumor Local Whole Body (E)	68	136	145
6411	Tumor Localization Spect	84	167	178
6412	Tumor Localization Spect (E)	83	165	175
6414	Gallium Study, Ltd	57	114	121
6415	Gallium Study, Ltd (Exam)	41	82	87
6417	Gallium Study Whole Body	87	173	184
6418	Gallium Study Whole Body (E)	67	133	141
6423	Auto Data Interdisc>30Min	34	68	72
6424	Auto Data Interdisc>30Min (E)	32	64	67
6226	TX Hyperthy, Init W/Eval	73	146	155
6427	TX Hyperthy, Init W/Eval (E)	32	64	67
6428	TX Hyperthy, Init W/Eval (R)	42	84	88
6429	TX Hyperthy, Subseq, Ea Visit	40	80	85
6432	Thy Suppress, Euthy (Card D)	74	147	156
6433	Thy Suppress, Euthy (Card D) (E)	32	64	67
6434	Thy Suppress, Euthy (Card D) (R)	42	84	89
6435	Thyroid CA Ablation	80	160	170
6436	Thyroid CA Ablation (Exam)	32	64	67
6437	Thyroid CA Ablation (Read)	48	96	102
6438	RN Metastases of Thy CA	90	180	191
6439	RN Metastases of Thy CA (E)	32	64	67
6440	RN Metastases of Thy CA (R)	59	118	125
6441	TX For Polycy Vera, Q/TX	63	125	132
6442	TX For Polycy Vera, Q/TX (E)	32	64	67
6444	TX Intracavitary Colloid	78	156	165
6445	TX Intracavitary Colloid (E)	32	64	67
6446	TX Intracavitary Colloid (R)	46	92	98
6447	Non Thy, Non Hemat (Bone Met)	78	155	164
6448	Non Thy, Non Hemat (Bone Met) (E)	32	64	67

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
6449	Non Thy, Non Hemat (Bone Met) (R)	46	92	97
7000	Th Rad TX Planning; Simple	33	65	69
7003	Th Rad TX Planning; Intermed	49	98	104
7006	Th Rad TX Planning; Complex	73	146	155
7020	Th Rad Simul-Aid Fld Set Smpl	53	106	112
7021	Th Rad Simul-Aid Fld Set Smple	37	74	78
7023	Th Rad Simul-Aid Fld Set Med	83	166	177
7024	Th Rad Simul-Aid Fld Set Med (E)	59	118	125
7026	Th Rad Simul-Aid Fld Set Complx	105	210	223
7027	Th Rad Simul-Aid Fld Set Cplxe	69	138	146
7028	Th Rad Simul-Aid Fld Set Cplxr	36	72	76
7043	Teletx, Isodose Plan; Simple	36	72	76
7046	Teletx, Isodose Plan; Intermed	49	98	103
7060	Teletx, Isodose Plan; Complx	65	129	137
7062	Teletx, Isodose Plan; Complx (Rea)	37	74	78
7063	Spec Teletx Port PL, Hemi/Tot	65	129	137
7064	Spec Teletx Port PL, Hemi/Tot (E)	43	85	90
7080	Brachyth Isodose Calcul, Smple	47	93	99
7083	Brachyth Isodose Calcul, Interm	69	138	147
7084	Brachyth Isodose Calcul, Intere	37	74	78
7085	Brachyth Isodose Calcul, Interr	33	65	69
7086	Brachyth Isodose Calcul, Comple	101	202	215
7087	Brachyth Isodose Calcul, Cmplxe	53	105	111
7088	Brachyth Isodose Calcul, Complxr	49	98	103
7103	TX Devices, Design & Constr, Inter	40	79	84
7106	TX Devices, Design & Constr, Coml	63	126	134
7107	TX Devices, Design & Constr, Cmpex	34	68	72
7120	Cont Rad Phys Cons Sup W/OA	32	64	67
7123	Special Med Rad Physic Consul	37	74	79
7130	Weekly Megavolt TX Manage Simp	131	261	277
7131	Wkly Megavolt TX Manage Smpl (E)	93	186	198
7132	Wkly Megavolt TX Manage Smpl (R)	38	75	79
7133	Weekly Megavolt TX Manage Inte	168	335	355
7134	Wkly Megavolt TX Manage Inte (E)	111	221	234
7135	Wkly Megavolt TX Manage Inte (R)	57	114	121
7136	Wkeely Megavolt TX Manage Comp	207	413	438
7137	Wkly Megavolt TX Manage Cplx (E)	123	245	260
7138	Wkly Megavolt TX Manage Cplx (R)	84	168	178
7146	Spec TC Proc (Tot/Hemibod/P–OS)	166	332	352
7147	Spec TC Proc (Tot/Hemibod/P–OS) (E)	49	98	103
7148	Spec TC Proc (Tot/Hemibod/P–OS) (R)	249	235	118
7160	Hyperthermia, Ext Gen, Superf	155	146	73
7161	Hyperthermia, Ext Gen, Superf (E)	78	74	37
7162	Hyperthermia, Ext Gen, Superf (R)	77	74	37
7163	Hyperthermia, Ext Gen, Deep	207	195	98
7164	Hyperthermia, Ext Gen, Deep (Ex)	105	98	49
7165	Hyperthermia, Ext Gen, Deep (Re)	103	98	49
7166	Hyperthermia, Interstit Probe	156	146	73
7167	Hyperthermia, Interstit Probe (Ex)	79	74	37
7168	Hyperthermia, Interstit Probe (Re)	79	74	37
7170	Hyperthermia, Interstit Pro>5	207	195	98
7171	Hyperthermia, Interstit Pro>5E	207	195	98
7172	Hyperthermia, Interstit Pro>5R	104	98	49
7173	Hypertherm Gen By Intracav Pro	156	146	73
7174	Hypertherm Gen By Intracav Pre	78	74	37
7175	Hypertherm Gen By Intracav Prr	77	74	37
7176	Infusion/Instill Radioelem Sol	261	245	123
7178	Infusion/Instill Radioele Solr	226	214	107
7200	Intracav Radioele Appl Simple	232	219	110
7202	Intracav Radioele Appl Simp (R)	175	166	83
7203	Intracav Radioelem Appl Interm	163	326	346
7204	Intracav Radioele Appl Inte (Ex)	38	76	81
7205	Intracav Radioele Appl Inte (Re)	125	250	265
7206	Intracav Radioelem Applic Comp	235	469	497
7207	Intracav Radioele Appl Cmpl (Ex)	48	95	101
7208	Intracav Radioele Appl Cmpl (Re)	187	373	397
7220	Interstit Radioelem Appl Simpl	135	270	286
7222	Interstit Radioel Appl Smple (R)	109	217	231
7223	Interstit Radioelem Applic Int	214	427	454

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
7224	Interstit Radioele Appl; Inte (E)	51	102	109
7225	Interstit Radioele Appl; Inte (R)	163	325	345
7226	Interstit Radioelem Appl Compl	306	611	649
7227	Interstit Radioele Appl Cmp (Ex)	62	123	131
7228	Interstit Radioele Appl Cmp (Re)	244	487	518
8000	Mrl, Brain (W/O Contrast)	125	250	265
8001	MRI, Brain (W/O Contrast) (Exam)	95	190	201
8003	MRI, Brain (W/Contrast)	221	441	469
8004	MRI, Brain (W/Contrast) (Exam)	181	361	382
8005	MRI, Brain (W/Contrast) (Read)	41	82	87
8006	MRI, Brain (W W/O Contrast)	356	710	753
8007	MRI, Brain (W W/O Contrast) (Ex)	301	600	637
8008	MRI, Brain (W W/O Contrast) (Re)	55	110	117
8010	MRI, Angiogram	356	710	753
8011	MRI, Angiogram (Exam)	301	600	637
8012	MRI, Angiogram (Read)	55	110	117
8020	MRI, Orbit Wo/Contrast	93	186	198
8021	MRI, Orbit Wo/Contrast (Exam)	63	126	134
8023	MRI, Orbit W/Contrast	93	186	198
8024	MRI, Orbit W/Contrast (Exam)	63	126	134
8026	MRI, Orbit Wo/W Contrast	129	257	273
8027	MRI, Orbit Wo/W Contrast (Exam)	95	190	201
8028	MRI, Orbit Wo/W Contrast (Read)	34	68	72
8040	MRI, Sinus Wo/Contrast	90	179	190
8041	MRI, Sinus Wo/Contrast (Exam)	63	126	134
8043	MRI, Sinus W/Contrast	106	212	225
8044	MRI, Sinus W/Contrast (Exam)	76	152	161
8046	MRI, Sinus W/Wo Contrast	128	256	272
8047	MRI, Sinus W/Wo Contr (Exam)	95	190	201
8048	MRI, Sinus W/Wo Contr (Read)	33	66	71
8060	MRI, Neck (W/O Contrast)	83	166	177
8061	MRI, Neck (W/O Contrast) (Exam)	63	126	134
8063	MRI, Neck (W/Contrast)	102	204	216
8064	MRI, Neck (W/Contrast) (Exam)	76	152	161
8066	MRI, Neck (W W/O Contrast)	166	332	352
8067	MRI, Neck (W W/O Contrst) (Exam)	95	190	201
8080	MRI, Chest Wo/Contrast	93	186	198
8081	MRI, Chest Wo/Contrast (Exam)	63	126	134
8083	MRI, Chest W/Contrast	93	186	198
8084	MRI, Chest W/Contrast (Exam)	63	126	134
8086	MRI, Chest Wo/W Contrast	129	257	273
8087	MRI, Chest Wo/W Contrast (Exam)	95	190	201
8088	MRI, Chest Wo/W Contrast (Read)	34	68	72
8100	MRI, C-Spine Wo/Contrast	106	212	225
8101	MRI, C-Spine Wo/Contrast (Exam)	79	158	168
8103	MRI, C-Spine W/Contrast	225	449	477
8104	MRI, C-Spine W/Contrast (Exam)	180	359	382
8105	MRI, C-Spine W/Contrast (Read)	45	90	95
8106	MRI, C-Spine Wo/W Contrast	361	720	764
8107	MRI, C-Spine Wo/W Contrast (Exam)	301	600	637
8108	MRI, C-Spine Wo/W Contrast (Read)	60	120	127
8120	MRI, T-Spine Wo/Contrast	106	212	225
8121	MRI, T-Spine Wo/Contrast (Exam)	79	158	168
8123	MRI, T-Spine W/Contrast	225	449	477
8124	MRI, T-Spine W/Contrast (Exam)	180	359	382
8125	MRI, T-Spine W/Contrast (Read)	45	90	95
8126	MRI, T-Spine Wo/W Contrast	361	720	764
8127	MRI, T-Spine Wo/W Contrast (Exam)	301	600	637
8128	MRI, T-Spine Wo/W Contrast (Read)	60	120	127
8140	MRI, L-Spine Wo/Contrast	106	212	225
8141	MRI, L-Spine Wo/Contrast (Exam)	79	158	168
8143	MRI, L-Spine W/Contrast	222	443	470
8144	MRI, L-Spine W/Contrast (Exam)	181	361	382
8145	MRI, L-Spine W/Contrast (Read)	41	82	87
8146	MRI, L-Spine Wo/Contrast	148	296	314
8147	MRI, L-Spine Wo/Contrast (Exam)	356	710	753
8148	MRI, L-Spine Wo/W Contrast (Read)	301	600	637
8160	MRI, Pelvis Wo/Contrast	103	206	219
8161	MRI, Pelvis Wo/Contrast (Exam)	76	152	161

Resource based relative value scale	Service provided	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
8163	MRI, Pelvis W/Contrast	121	242	257
8164	MRI, Pelvis W/Contrast (Exam)	92	183	194
8166	MRI, Pelvis Wo/Contrast	147	293	311
8167	MRI, Pelvis Wo/Contrast (Exam)	114	227	241
8168	MRI, Pelvis Wo/Contrast (Read)	33	66	70
8180	MRI, Upper Ext Wo/Contrast	173	345	366
8181	MRI, Upper Ext Wo/Contrast (Exam)	150	299	318
8183	MRI, Upper Ext W/Contrast	106	212	225
8184	MRI, Upper Ext W/Contrast (Exam)	79	158	168
8186	MRI, Upper Ext Wo/W Contrast	128	255	271
8187	MRI, Upper Ext Wo/W Contrast (E)	100	199	211
8200	MRI, Lower Ext Wo/Contrast	173	345	366
8201	MRI, Lower Ext Wo/Contrast (Exam)	150	299	318
8203	MRI, Lower Ext W/Contrast	106	212	225
8204	MRI, Lower Ext W/Contrast (Exam)	79	158	168
8206	MRI, Lower Ext Wo/W Contrast	128	255	271
8207	MRI, Lower Ext Wo/W Contrast (E)	100	199	211
8220	MRI, Abdomen Wo/Contrast	106	212	225
8221	MRI, Abdomen Wo/Contrast (Exam)	79	158	168
8223	MRI, Abdomen W/Contrast	123	246	261
8224	MRI, Abdomen W/Contrast (Exam)	95	190	201
8226	MRI, Abdomen Wo/W Contrast	148	296	314
8227	MRI, Abdomen Wo/W Contrast (Exam)	119	237	252
8240	MRI, Heart Wo/Contrast	106	212	225
8241	MRI, Heart Wo/Contrast (Exam)	79	158	168
8243	MRI, Heart W/Contrast	123	246	261
8244	MRI, Heart W/Contrast (Exam)	95	190	201
8246	MRI, Heart Wo/W Contrast	148	296	314
8247	MRI, Heart Wo/W Contrast (Exam)	119	237	252
8260	MRI, TMJ Wo/Contrast	172	343	365
8261	MRI, TMJ Wo/Contrast (Exam)	150	299	318
8263	MRI, TMJ W/Contrast	106	212	225
8264	MRI, TMJ W/Contrast (Exam)	79	158	168
8996	MRI, Other	125	250	265
8997	MRI, Other (Exam)	95	190	201
8266	MRI, TMJ Wo/W Contrast	128	255	271
8267	MRI, TMJ Wo/W Contrast (Exam)	100	199	211

Explanations at end of docket.

F. Elective Cosmetic Surgery Procedures and Rates

Cosmetic surgery procedure	International classification diseases (ICD–9)	Common procedure terminology (CPT)[6]	FY 95 charge[7]	Amount of charge
Mammaplasty	85.50	19325	Surgical care services or same day surgery	[a]
	85.32	19324		[b]
	85.31	19318		
Mastopexy	85.60	19316	Surgical care services or same day surgery	[a]
				[b]
Facial Rhytidectomy	86.82	15824	Surgical care services or same day surgery	[a]
	86.22			[b]
Blepharoplasty	08.70	15820	Surgical care services or same day surgery	[a]
	08.44	15821		[b]
		15822		
		15823		
Mentoplasty (Augmentation Reduction)	76.68	21208	Surgical care services or same day surgery	[a]
	76.67	21209		[b]
Abdominoplasty	86.83	15831	Surgical care services or same day surgery	[a]
				[b]
Lipectomy, suction per region[8]	86.83	15876	Surgical care services or same day surgery	[a]
		15877		[b]
		15878		
		15879		
Rhinoplasty	21.87	30400	Surgical care services or same day surgery	[a]
	21.86	30410		[b]

Cosmetic surgery procedure	International classification diseases (ICD–9)	Common procedure terminology (CPT)[6]	FY 95 charge[7]	Amount of charge
Scar revisions beyond CHAMPUS	86.84	1578_	Surgical care services or same day surgery	[a] [b]
Mandibular or maxillary repositioning	76.41	21194	Surgical care services or same day surgery	[a] [b]
Minor skin lesions[9]	86.30	1578_	Surgical care services or same day surgery	[a] [b]
Dermabrasion	86.25	15780	Surgical care services or same day surgery	[a] [b]
Hair Restoration	86.64	15775	Surgical care services or same day surgery	[a] [b]
Removing Tatoos	86.25	15780	Surgical care services or same day surgery	[a] [b]
Chemical Peel	86.24	15790	Surgical care services or same day surgery	[a] [b]
Arm/Thigh Dermolipectomy	86.83	1583_	Surgical care services or same day surgery	[a] [b]
Brow Lift	86.3	15839	Surgical care services or same day surgery	[a] [b]

Notes on Cosmetic Surgery Charges

[a] Charges for surgical care are contained in Section I.B. (See notes 7 through 9 on reimbursable rates for further details.)

[b] Charges for same day surgery are contained in Section II.L. (See notes 7 through 9 on reimbursable rates for further details.)

Notes on Reimbursable Rates

[1] Percentages are applied to both inpatient and outpatient services provided when billing third party payers (e.g., insurance companies). Pursuant to the provisions of 10 U.S.C. 1095, the inpatient Diagnosis Related Groups are 95 percent hospital and 5 percent professional fee. The outpatient per visit percentages are 57 percent hospital, 33 percent ancillary and 10 percent professional.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

[3] The cost of DRG (Diagnosis Related Groups) is based on the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal diagnosis involved. The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the Direct Care System will be comparable to procedures utilized by Health Care Financing Administration (HFCA) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses include all direct care expenses associated with direct patient care. The average cost per relative weight product for large urban, other urban, rural and overseas will be published annually as an inpatient standardized amount and will include the cost of inpatient professional services. The DRG rates will apply to reimbursement from all sources, not just third party payers.

[4] A third party payer may be billed if the total prescription costs exceed $60. The prescription cost is calculated by multiplying the number of units (tablets, capsules, etc.) times the unit cost and adding a $3.95 dispensing fee per prescription.

[5] Charges for high cost medications/services requested by external providers (Physicians, Dentists, etc.) are only relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for high cost services in those instances in which dependents who have medical insurance, seen by providers external to a Military Medical Treatment Facility (MTF), obtain the prescribed service or medication from an MTF. Eligible beneficiaries (family members or retirees with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. The standard cost of high cost medications includes the cost of the drugs plus a dispensing fee, per prescription.

[6] The attending physician is to complete the common procedure terminology code to indicate the appropriate procedure followed during cosmetic surgery. The appropriate rate will be applied depending on the admission type of the patient, e.g., outpatient surgical, same day/ambulatory surgery, or surgical care services.

[7] Family members of active duty personnel, retirees and their family members, and survivors will be charged cosmetic surgery rates. The patient shall be charged the rate as specified in the FY 1995 reimbursable rates for an episode of care. The charges for elective cosmetic surgery are at the full reimbursement rate (designated as the Other rate) in Section I.B., general surgery (designated as the Other rate) in Section II.B., or same day surgery as contained in Section II.L. of this attachment. The patient will be responsible for both the cost of the implant(s) in addition to the prescribed cosmetic surgery rates.

Note: The implants and procedures used for the augmentation mammaplasty are in compliance with Federal Drug Administration guidelines.

[8] Each regional lipectomy will carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[9] These procedures are inclusive in the minor skin lesions. However, CHAMPUS separates them as noted here. All charges are for the entire treatment regardless of the number of visits required.

Dated: October 17, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–26081 Filed 10–21–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Brevard County, Florida, Shore Protection Project

AGENCY: U.S. Army Corps of Engineers, Jacksonville District, DOD.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, intents to prepare a Draft Environmental Impact Statement for the Brevard County Shore Protection Review Study. The EIS will concern the Atlantic shoreline of Brevard County between Canaveral Harbor and the south end of South Melbourne beach. The authorized study provides for review of the authorized shore protection project for possible modification and to provide a solution for the continued erosion problems that are endangering the uplands within the study area.

ADDRESSES: U.S. Army Corps of Engineers, Jacksonville District, Environmental Branch, Planning Division, P.O. Box 4970, Jacksonville, Florida 32232–0019.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Dupes, (904) 232–1689.

SUPPLEMENTARY INFORMATION:

1. The Brevard County Florida Shore Protection Project Review Study was authorized by the committee on Public Works and Transportation, U.S. House of Representatives by resolution adopted September 23, 1982. Study authorization provides for review of the report of the Chief of Engineers on Brevard County, Florida, published in House document No. 352, 90th Congress, 2nd Session, July 1968. The study is to determine the advisability of modifying the existing project. Consideration is to be given to the economic and recreational benefit of implementing restoration projects, and extending the period of Federal participation in the cost of periodic nourishment of the authorized Beach Erosion Control Project. Environmental considerations will be addressed in an Environmental Impact Statement.

2. Alternatives: Non-structural alternatives being considered include a construction control line, flood insurance, evaluation planning, relocation of structures, nonstructural combinations, and no action. Structural alternatives being considered include beach fill with periodic nourishment, beach fill with maintenance material from inlets, nearshore berm construction, stabilization of beaches and dunes by vegetation, construction of a hurricane dune, dune rehabilitation, construction of breakwaters, groins, or revetments, and various structural combinations.

3. Scoping: The scoping process will involve Federal, State, county and municipal agencies, and other interested persons and organizations. A scoping letter dated January 23, 1992 was sent during the reconnaissance phase to interested Federal, State, county and municipal agencies requesting their comments and concerns. A second scoping letter, dated October 5, 1994, was sent for this phase of the study. Any persons and organizations wishing to participate in the scoping process should contact the U.S. Army Corps of Engineers at the above address. Significant issues that are anticipated include concern for about 10 miles of nearshore lithified coquina reefs and worm rock, the federally listed southeastern beach mouse, water quality and nesting sea turtles. The study area includes one Coastal Barrier Resource System (CBRS) unit and portions of the proposed Archie Carr National Wildlife Refuge. Coordination with the State Historic Preservation Officer (SHPO) has indicated that historical and archaeological resources may be present in the proposed borrow areas. Further coordination with the SHPO will occur during the preparation of the EIS.

4. Coordination with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service will be accomplished in compliance with section 7 of the Endangered Species Act. Coordination required by applicable Federal and State laws and policies will be conducted. Since the project will require the discharge of material into waters of the United States the discharge will comply with the provisions of section 404 of the Clean Water Act as amended.

5. EIS Preparation: It is estimated that a draft EIS will be available to the public in June 1996.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–26299 Filed 10–21–94; 8:45 am]

BILLING CODE 3710–AT–M

DEPARTMENT OF ENERGY

Notice of Intent to Prepare an Environmental Impact Statement for the Fabrication and Deployment of a Multi-Purpose Canister-Based System for the Management of Civilian Spent Nuclear Fuel

AGENCY: United States Department of Energy (DOE).

ACTION: Notice of intent.

SUMMARY: DOE announces its intent to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), in accordance with the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508) and the DOE NEPA Implementing Procedures (10 CFR Part 1021).

Under the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 *et seq.*) (the Act), DOE is responsible for disposal of civilian spent nuclear fuel in a high-level radioactive waste geologic repository, and for any monitored retrievable storage of spent nuclear fuel prior to disposal. The Department is also responsible under the Act for transportation of spent nuclear fuel in connection with DOE's disposal or storage. In order to carry out its responsibilities relating to the transportation of spent nuclear fuel, and to facilitate planning for the design of a geologic disposal facility and a possible monitored retrievable storage facility, DOE is in the process of deciding whether or not to fabricate and deploy a multi-purpose canister[1]-based system that would use metal canisters capable of holding multiple spent fuel assemblies.[2] This system would enable spent fuel assemblies to be loaded into a canister and sealed at the reactor site. The sealed canister could be stored, transported, and disposed of without repackaging or further handling of bare spent nuclear fuel. Alternatives to the multi-purpose canister-based system would require additional handling of the individual spent fuel assemblies as they are transferred to different specialized casks[3] for storage, transport, and disposal.

In addition to the sealed metal canisters, the multi-purpose canister-based system would use specialized casks or overpacks[4] for transfer, storage, and transport of multi-purpose canisters containing spent nuclear fuel. Multi-purpose canisters containing spent nuclear fuel could be transported to any storage facility that may become available and eventually to a geologic repository. At a geologic repository, the spent nuclear fuel could remain in the multi-purpose canister and may be placed in a disposal overpack and sealed for disposal as a unit. The sealed disposal overpack would be designed

[1] A *canister* is the primary or sealed container for spent nuclear fuel or vitrified high level waste.

[2] A *fuel assembly* is the physical arrangement of fuel rods held together by plates and separated by spacers attached to the fuel cladding.

[3] A *cask* is a large, heavily-shielded container used for storage and/or transport of spent nuclear fuel. The cask provides chemical, mechanical, thermal, and radiological protection, and dissipates decay heat during handling, transportation and storage.

[4] An *overpack* is a secondary (or additional) external container for the spent nuclear fuel. The overpack provides structural strength, radiation shielding, corrosion resistance, containment, and engineered barrier performance for the spent nuclear fuel, as specified under 10 CFR Parts 60, 71, and 72.

during the design phase of geologic repository development to meet regulatory requirements for disposal. Centralized storage of multi-purpose canisters, or disposal of multi-purpose canisters in a geologic repository, would be analyzed in separate NEPA documents, as provided by the Act.

The subject EIS will evaluate the potential environmental impacts of fabricating and deploying the multi-purpose canister-based system, as well as the impacts of reasonable alternative storage and transport systems.

DATES: To ensure that the full range of issues and alternatives related to this proposal is addressed, DOE invites comments on the proposed action (fabrication and deployment of the multi-purpose canister-based system), including the scope of the subject EIS. Oral and written comments will be considered equally in preparation of the EIS. The public participation process is discussed below in the Supplemental Information section.

The public scoping period begins with the publication of this Notice of Intent in the **Federal Register** and will continue until January 6, 1995. Written comments should be postmarked by that date to ensure consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments on the scope of this EIS should be directed to: U.S. Department of Energy, c/o Argonne National Laboratory, EAD, Building 900, Mail Stop 1, 9700 South Cass Avenue, Argonne, IL 60439, ATTN: Multi-Purpose Canister EIS Comments.

FOR FURTHER INFORMATION CONTACT: For further information on this EIS, please contact: Mr. Gerald J. Parker, Multi-Purpose Canister EIS Manager, Office of Civilian Radioactive Waste Management (RW–45), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 1–202–586–5679.

For general information on the DOE NEPA review process, please 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: 1–202–586–4600 or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION: *Public Participation*: All interested persons or stakeholders, including Federal agencies, Indian tribal organizations, State and local government agencies, public interest groups, manufacturers of equipment, transportation interests, industry and utility organizations, regulators, and the general public are encouraged to participate in the EIS scoping process. Because of the anticipated public interest and national scope of the program, DOE will provide several means for the public to express its views and provide comments. Comments submitted by any of these means will become part of the official record for scoping.

Written Comments: DOE invites all interested persons to submit comments related to the proposed fabrication and deployment of the multi-purpose canister-based system. Written comments should be sent to the Argonne National Laboratory address listed above. Requests for fact sheets and related documents (which will cover such topics as the proposed multi-purpose canister-based system, safety, transportation, and the NEPA process) may also be made by writing to this address. Written comments and requests for fact sheets and related documents can be submitted to the following toll-free facsimile telephone number: 1–800–MPC–4531 or 1–800–672–4531.

Toll-Free Telephone Line: Oral comments may be made via the following toll-free telephone number, 1–800–MPC–3304 or 1–800–672–3304, from 9 a.m. to 9 p.m. Eastern Standard Time, Monday through Friday. Comments will be noted and become part of the official record for scoping. Requests for fact sheets and related documents may also be made by calling this toll-free telephone number.

Electronic Mail: Comments can be submitted by electronic mail to the following INTERNET address: MPCEIS@smtplink.ead.anl.gov. Requests for fact sheets and related documents may also be made using this electronic mail address.

Electronic Bulletin Board: The public may review technical documents and provide comments via an electronic bulletin board. Call 1–800–MPC–1855 or 1–800–672–1855 for information on downloading, and for uploading comments for inclusion in the scoping process.

Meetings: Three public scoping meetings will be held to provide and discuss information on the subject EIS, and to receive oral and written comments. Meetings are scheduled for November 21, 1994, in Las Vegas, Nevada, at the Cashman Field Center, 850 Las Vegas Boulevard North; November 30, 1994, in Chicago, Illinois, at the Clarion International Hotel, 6810 N. Mannheim Rd.; and December 7, 1994, in the Washington D.C., area, at the Hyatt Crystal City Hotel in Arlington, Virginia. All meetings are scheduled from 8:30 a.m. until 9 p.m. or later, depending upon public interest. Pre-registration to speak at a scoping meeting is requested no later than five days prior to the meeting in that city. Pre-registration (by providing name and organization affiliation, if any) can be accomplished via the toll-free telephone number, the toll-free facsimile number, electronic mail, or in writing. The meetings will be open to the general public and on-site registration to speak will be accommodated to the extent practicable.

Technical exhibits, informational materials, models, and videos will be available in a separate room at each meeting site. DOE staff and representatives will be available to discuss the program and answer questions. Comment cards will be available for those who desire to provide scoping comments at that time. On the day of the public meeting, this room will be open from 8 a.m. until 9 p.m. or later, depending upon public interest.

The three public scoping meetings will start at 8:30 a.m. DOE staff will briefly describe: (1) the proposed multi-purpose canister-based system; (2) the EIS procedure and the scoping process, including other public participation opportunities such as the toll-free telephone number, toll-free facsimile number, written comment process, electronic mail availability, and electronic bulletin board access; and (3) the morning's informational workshop format and the format for public scoping. Following this introduction, informational workshops will be held, focusing on different technical aspects of the multi-purpose canister-based system. The four workshops will be repeated during the morning and will cover the following topics: (1) Multi-purpose canister design parameters and fabrication; (2) storage at reactor sites and at other possible storage facilities; (3) transportation; and (4) surface handling of multi-purpose canisters at a geologic repository in preparation for disposal. These informational workshops will be informal, and will *not* become part of the record for scoping.

On-the-record public scoping will begin at 1:30 p.m. Based upon pre-registration, a list of speakers will be developed. Walk-in registrants will be accommodated following pre-registrants. Oral comments will be recorded by a court reporter.

Results of scoping, including a summary of comments received, will be made available in the EIS Implementation Plan. DOE will make the Implementation Plan available to the public for information as soon as possible after the close of scoping but

prior to issuance of the draft EIS. The Implementation Plan will also include a statement of the planned scope and content of the EIS, the purpose and need for agency action, the proposed action and alternatives, target schedules, anticipated consultation with other agencies, and a description of the scoping process and the results of this process. Copies of the Implementation Plan, as well as the draft and final EISs, will be provided to anyone requesting copies of the documents. In addition, copies will be made available for inspection during business hours at DOE's Freedom of Information Reading Room (1E–190), Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., Monday through Friday; and in local DOE Field Office reading rooms (locations are listed at the end of this notice).

Purpose and Need for Agency Action: Under the Nuclear Waste Policy Act of 1982, as amended (42 U.S.C. 10101 *et seq.*), DOE is responsible for managing the disposal of spent nuclear fuel from civilian nuclear power plants, and for possible monitored retrievable storage of spent nuclear fuel prior to disposal. The Department is also responsible for transportation of spent nuclear fuel in connection with DOE's disposal or storage. In order to carry out these responsibilities, DOE needs to develop a program for handling, storing, transporting, and disposing spent nuclear fuel. A number of alternative technology systems may be available to accomplish these objectives and protect the environment. DOE needs to select one or more such systems.

Background: The Nuclear Waste Policy Act of 1982, as amended, (the Act), made DOE responsible for managing the disposal of high-level radioactive waste and spent nuclear fuel from civilian nuclear power plants, and established the Office of Civilian Radioactive Waste Management for that purpose. Specifically, the Act directed DOE to "establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository." As discussed below, Congress also established in the Act specific requirements applicable to DOE's NEPA compliance activities as DOE proceeds to implement the Act's mandate. In carrying out that mandate, DOE is developing an overall waste management system that will include a geologic repository for permanent disposal of waste and a possible monitored retrievable storage facility for temporary storage. The requirements for developing these facilities are explicitly set forth in the Act. These facilities are described below.

Geologic Repository: On May 27, 1986, the then-Secretary of Energy, as required by the Nuclear Waste Policy Act of 1982, nominated five sites in Mississippi, Nevada, Texas, Utah, and Washington as suitable for characterization for a possible geologic repository and recommended to the President that three of these sites—the Yucca Mountain site in Nevada, the Deaf Smith County site in Texas, and the Hanford site in Washington—be characterized as candidate sites for a first repository. The Secretary's recommendation was approved by the President.

In 1987, Congress passed the Nuclear Waste Policy Amendments Act, which directed that DOE conduct repository site-characterization activities only at the Yucca Mountain site in Nye County, Nevada. If, after site characterization, Yucca Mountain is found by DOE to be suitable as a geologic repository, it is expected to be available for receiving spent nuclear fuel by the year 2010.

The Nuclear Waste Policy Amendments Act stipulates that if the Yucca Mountain site is found suitable, DOE's decision to recommend to the President the development of the Yucca Mountain site as a geologic repository will be supported by an EIS. The statute specifically provides that this EIS need not consider the following issues (which otherwise might require consideration under NEPA): (1) The need for a geologic repository, (2) alternatives to geologic disposal, and (3) alternative sites to Yucca Mountain. The scope of a geologic repository EIS will be discussed in a Notice of Intent that DOE has scheduled to be issued in the **Federal Register** in 1995.

Monitored Retrievable Storage Facility: The Nuclear Waste Policy Amendments Act also provided two processes for siting and constructing a monitored retrievable storage facility. Under one process, DOE would survey and evaluate potentially suitable sites. Under the other process, the Nuclear Waste Negotiator (a position established by the Nuclear Waste Policy Amendments Act) would attempt to find a State or Indian tribe willing to host a monitored retrievable storage facility.

DOE is currently supporting the efforts of the Nuclear Waste Negotiator to find a suitable site for a monitored retrievable storage facility. For either siting process, the Act requires that DOE's application to the Nuclear Regulatory Commission for a construction authorization be accompanied by an EIS.

Current Practices for On-Site Storage of Spent Nuclear Fuel: Spent nuclear fuel assemblies consist of an array of zircalloy or stainless steel rods filled with uranium dioxide pellets, which have reached the end of their useful life in a nuclear reactor. Spent fuel assemblies from commercial power reactors are initially stored under water in specially designed pools at the reactor sites. The spent nuclear fuel is both thermally hot and highly radioactive. At many commercial reactor sites, the quantity of spent fuel assemblies is approaching the maximum storage capacity of the pools. Although pool capacity can be increased by fuel rod consolidation or re-racking, as reactors continue to operate and more spent nuclear fuel is generated, other means for temporary storage of spent nuclear fuel are being implemented. One storage option is the construction of additional at-reactor storage, or independent spent fuel storage installations, which would provide dry storage of spent nuclear fuel. The first licensed dry cask storage facility began operation in 1986. Since then, several other dry cask storage facilities have been licensed.

The Department's Energy Information Administration projects that 22 spent fuel storage pools will have reached their maximum storage capacity before the end of 1998; therefore, additional storage capacity would be required. Utilities are currently using dry cask storage at reactor sites for this additional storage capacity. The need for spent nuclear fuel storage will increase whether or not DOE deploys the multi-purpose canister-based system or any of its alternatives.

Multi-purpose Canister-based System: The multi-purpose canister-based system would replace or supplement existing technologies for storage and transport of spent nuclear fuel. While the Act makes DOE responsible for the transportation, monitored retrievable storage, and disposal of spent nuclear fuel, multi-purpose canister technology is not a specific requirement of the Act. Rather, it is one means of providing for spent nuclear fuel transportation that, because of its multi-purpose design, would also facilitate the Department's planning for disposal facilities and possible monitored retrievable storage, while assisting commercial reactor operators in satisfying their need to plan for additional storage of the spent nuclear fuel that is accumulating at the civilian reactor sites.

In 1992, DOE investigated the feasibility of using a multi-purpose canister-based system, i.e., a standardized set of sealed canisters, transportation casks, and storage overpacks to handle spent nuclear fuel. Under this approach, spent fuel assemblies would be placed in sealed canisters that would remain sealed during transport and storage, and that would be compatible with disposal. Because this approach would minimize the handling of individual fuel assemblies, preliminary evaluations indicated that such a multi-purpose canister-based system could provide cost, feasibility, health and safety, environmental impact, and risk advantages over other existing and proposed waste management systems. Additionally, the multi-purpose canister-based system could be used to accept a majority of existing fuel sizes and configurations, and would allow the establishment of standardized handling procedures.

The investigation of the multi-purpose canister concept involved the development of a conceptual design, numerous supporting studies, evaluations of alternative cask and canister concepts, and input from stakeholders. Based on these activities, the decision was made to invite private vendors to submit designs for components of the multi-purpose canister-based system. On June 3, 1994, a package of information was provided to individuals responding to a DOE contractor (TRW Environmental Safety Systems, Inc.) request for proposals announcement, which was published in the May 11, 1994, issue of the *Commerce Business Daily*. One or more design contracts are expected to be awarded in early 1995. The request for proposals established broad criteria sufficient to allow for varied design approaches.

The varied design approaches expected to be received in response to the request for proposals will be reviewed by DOE and a range of reasonable alternatives will be submitted to the Nuclear Regulatory Commission for certification of their compliance with the Commission's regulations for transport and storage of spent nuclear fuel (10 CFR Parts 71 and 72). DOE expects that each vendor team will submit a package of up to six multi-purpose canister-related Safety Analysis Reports (up to four for storage and two for transportation). More than one vendor team may proceed to the cask certification phase. DOE expects these applications to represent the reasonable range of multi-purpose canister-based system alternatives. The decision to proceed with designs and to submit Safety Analysis Reports for a multi-purpose canister-based system will not limit the choice of reasonable alternatives for handling, storing and transporting spent nuclear fuel nor prejudice the ultimate decisions on the spent nuclear fuel management system, because DOE and/or commercial reactor operators are free to use any Nuclear Regulatory Commission-certified technology. If there are any meaningful differences in the environmental impacts of varied multi-purpose canister-based system designs, they are expected to relate to cask capacity, which determines the quantity of spent nuclear fuel in a storage and transport unit, and therefore would determine the total inventory of multi-purpose canisters required for storage and transport.

DOE, in accordance with both the Council on Environmental Quality's NEPA regulations (40 CFR Parts 1500–1508) and its own regulations for implementing NEPA (10 CFR Part 1021), has determined that an EIS is the appropriate level of environmental review documentation for the proposed action. The subject EIS will analyze the environmental impacts of fabricating and deploying a multi-purpose canister-based system as a part of the civilian spent nuclear fuel management system.

Proposed Action: The proposed action would provide a standardized system to handle, store, and transport spent nuclear fuel, in order to minimize or eliminate the need for the spent nuclear fuel to be removed from canisters or casks during storage and transportation, and, to the extent practicable, be compatible with disposal.

DOE proposes to fabricate and deploy certain components of a multi-purpose canister-based system. These components are: (1) Canisters capable of holding multiple spent nuclear fuel assemblies; (2) specialized handling and welding equipment; (3) transfer casks to shield the canisters during loading into on-site storage casks; (4) storage casks for sealed canisters; (5) transportation casks for rail transport of canisters; and (6) associated equipment necessary to deploy the multi-purpose canister-based system. If DOE decides to deploy this system, the multi-purpose canister-based system components could be provided to utilities building dry storage facilities and willing to adopt the multi-purpose canister as part of their spent nuclear fuel management system.

In evaluating the environmental impacts of the proposed action, the following will be analyzed:

- Manufacturing of multi-purpose canister-based system components;
- Packaging and handling of spent nuclear fuel as it is transferred to canisters or casks;
- Canister transfer and loading operations;
- Storage of spent nuclear fuel in canisters and casks at the reactor sites;
- Spent nuclear fuel transportation from the reactor sites to a hypothetical monitored retrievable storage facility and/or a geologic repository (generic analysis);
- Handling and storage of spent nuclear fuel at a hypothetical monitored retrievable storage facility (generic analysis); and
- Surface activities involving the handling and disposal of spent nuclear fuel at a geologic repository (generic analysis).

The multi-purpose canister-based system could be compatible with the permanent disposal of spent nuclear fuel because the canister could be encapsulated in a sealed disposal overpack for placement in a geologic repository. Because site characterization data are not available and the regulatory standards applicable to permanent disposal have not yet been established by the U.S. Environmental Protection Agency, underground emplacement and post-closure impacts at a geologic repository will not be addressed in this EIS. As previously described, such impacts will be discussed in the geologic repository EIS.

To analyze the impacts of the multi-purpose canister-based system, the subject EIS will use the conceptual designs that accompanied the request for proposals information package, which was distributed on June 3, 1994. The conceptual designs include two sizes for the multi-purpose canister: a large capacity canister that would satisfy a 125-ton crane hook weight limit and a small capacity canister that would meet a 75-ton crane hook weight limit. The capacity of the large canister would be 21 pressurized water reactor fuel assemblies or 40 boiling water reactor fuel assemblies. The small canister would have a capacity of 12 pressurized water reactor assemblies or 24 boiling water reactor assemblies.

A multi-purpose canister would consist of a cylindrical shell with two lids, a spent fuel basket, and a shield plug. The spent fuel basket would provide structural support for the spent fuel assemblies and a path for the transfer of the heat generated by the spent nuclear fuel into the canister shell. The spent fuel basket would also

provide criticality [5] control to ensure that the spent nuclear fuel remains subcritical. The cylindrical shell would provide structural support for the fuel basket structure. For storage, the cylindrical shell and the inner lid would provide a primary containment boundary to prevent the release of radioactive material from the spent nuclear fuel. For transportation and disposal, the outer lid would provide primary containment.

The material considered in the conceptual design for the multi-purpose canister shell was 316L stainless steel; alternatives may include other types of stainless steel. The shield plug is a metal barrier to reduce exposure during transfer and may be required to maintain personnel radiation exposures as low as reasonably achievable during welding and inspection; alternative materials may include depleted uranium and carbon steel.

The multi-purpose canister-based system conceptual design also includes two transportation casks, one to transport the large canister and one to transport the small canister. For transportation, the transportation cask provides the primary containment. The structural components of the cask body may be composed of stainless steel and an enclosed gamma shielding material that incorporates depleted uranium and a layer of lead. Alternative shielding materials may be lead, depleted uranium, or a combination of the two.

Alternatives to the Proposed Action: Three alternative hardware systems are being considered for evaluation in the EIS. These alternatives are presented to facilitate discussion on the scope of the EIS and are not intended to be all-inclusive or to predetermine the EIS scope. The alternatives include: (1) no action, which is the current technology consisting of different systems of specialized single-purpose canisters and casks that have been certified by the Nuclear Regulatory Commission or are presently undergoing Nuclear Regulatory Commission certification; (2) the current technology [as in alternative (1)] supplemented by a high-capacity rail transportation cask; and (3) a system using transportable storage casks. These alternatives are further described below.

Under the no-action alternative, DOE would not promote a particular system. Under this approach, DOE expects that spent fuel assemblies would be transferred from one single-purpose cask to another single-purpose cask as they move through the waste-management system. Each transfer process would require additional handling of bare spent fuel assemblies. This non-standardized single-purpose system is currently being used or proposed for use by utilities as their spent fuel pools reach capacity. In addition to the currently certified rail transportation casks, this scenario assumes that the legal weight truck cask, currently being developed with a capacity of four pressurized water reactor or nine boiling water reactor fuel assemblies, will also be available. Because DOE expects this scenario to occur if DOE does not act to implement the multi-purpose canister-based system or one of the other alternatives, it regards this scenario as the no-action alternative in the EIS.

The second alternative is identical to the no-action alternative, except that the system would be supplemented by a new high-capacity rail transportation cask. This alternative would examine the use of rail transport to reduce the frequency of required shipments, improve transportation efficiency, and reduce cumulative exposures near transportation routes. Like the no-action alternative, this alternative would require additional handling of bare spent fuel assemblies as these assemblies are transferred from one single purpose storage or transportation canister or cask to another. Although DOE is unaware of any effort currently under way to obtain Nuclear Regulatory Commission certification of such a rail cask, the rail cask is technically feasible and may provide advantages over the no-action alternative.

The third alternative involves the development of dual-purpose transportable storage casks (a dual-purpose cask-based system that could be transported by rail). This system could be supplemented with legal weight truck casks for those utilities unable to accommodate transportable storage casks suitable for rail transport. Under this alternative, spent fuel assemblies would be placed in a sealed cask that may be used for dry storage and transport by rail, either to a monitored retrievable storage facility or to a geologic repository. At a geologic repository, individual fuel assemblies would be removed from the transportable storage cask and repackaged in a suitable geologic disposal package. This alternative could provide high transportation capacities in comparison to the no-action alternative and reduce the number of times that spent nuclear fuel would have to be handled outside a canister or a cask. However, it would require additional repackaging and handling of the spent nuclear fuel at a geologic repository.

Environmental Issues: DOE has identified environmental issues related to the multi-purpose canister-based system and the alternative systems. The issues are presented here to facilitate scoping. The list of issues is not intended to be all-inclusive or to predetermine the scope of the EIS.

Since the proposed multi-purpose canister-based system would be made available to commercial reactor operators, and would be used by DOE in its own activities relating to the management of spent nuclear fuel, this EIS would address in general terms potential impacts related to deployment of the multi-purpose canister-based system or its alternatives at all steps leading to ultimate disposal. However, the EIS would not include site-specific analysis of the potential impacts associated with specific reactor sites, potential monitored retrievable storage facility sites, potential geologic repository sites, or site-specific transportation routes. These analyses would be performed in subsequent NEPA reviews, as appropriate.

DOE expects that the EIS would address the following issues:

- Public and Worker Safety and Health. The potential health and safety impacts to workers and the public during the handling, packaging and storage of spent nuclear fuel at a generic nuclear power plant site, during transportation of spent nuclear fuel, and during handling at storage and disposal facilities. Subsequent NEPA documents will address health effects in more detail once the specific proposed sites and routes are identified;
- Transportation. The potential risks associated with transport of spent nuclear fuel will be assessed for shipments between reactor sites and each hypothetical monitored retrievable storage facility and/or a geologic repository. For purposes of analysis, two hypothetical monitored retrievable storage facility locations will be considered: one in the eastern region and one in the western region of the United States. A geologic repository will be assumed to be located at Yucca Mountain, Nevada, which is the only candidate repository site currently authorized by law for investigation. The use of hypothetical routes and facility locations for the monitored retrievable storage facility and geologic repository in performing various calculations is not meant to imply that DOE has actually

[5] *Criticality* is the ability of an array of nuclear fuel to sustain a nuclear chain reaction. Casks used for storage and transportation of spent nuclear fuel and waste packages used for final disposal must be designed to prevent the occurrence of criticality, even under postulated accident conditions. The condition of nuclear fuel before it achieves criticality is called *subcritical*.

made routing or site-selection decisions at this time;

• Accidents. The potential effects to the environment, workers and the public due to reasonably foreseeable accidents during handling, storage, and transportation, including accidents with low probability but high consequences;

• Waste Isolation. The potential impacts on the operation of at-reactor storage sites, hypothetical monitored retrievable storage facilities, and a geologic repository;

• Waste Management. The impacts of management of solid and liquid waste, including residues, non-hazardous, hazardous, and radiological wastes that might result from manufacturing, storage, and transportation;

• Socioeconomic Conditions. Potential generic socioeconomic impacts, such as impacts on employment, tax base, and public services;

• Environmental Justice. Potential disproportionately high and adverse impacts of activities on minority or low-income populations;

• Pollution Prevention. Appropriate and innovative pollution prevention, waste minimization, and energy and water use reduction technologies, including eliminating or significantly reducing: (a) Acquisition of unnecessary hazardous substances, and (b) energy, water, and related environmental impacts by promoting use of energy efficient and renewable technologies;

• Soil, Water, and Air Resources. Potential generic impacts to soil, water, and air pathways;

• Sensitive Habitat Resources. Potential generic impacts to plants, animals, and habitat, including impacts to floodplains, wetlands, and threatened and endangered species and their habitat; and

• Cultural Resources. Potential generic impacts to cultural resources.

Relationship to Other NEPA Reviews: The Act directs DOE to characterize only one site, Yucca Mountain, Nye County, Nevada, for the first geologic repository. If, after site characterization, the Yucca Mountain site is found to be suitable, the Secretary of Energy may submit to the President a recommendation that the President approve the site for development as a geologic repository. This recommendation is required by the Act to be accompanied by an EIS. At present, site characterization activities are proceeding at Yucca Mountain, but a site-suitability determination has not been made. The Act also authorizes DOE to site, construct, and operate a monitored retrievable storage facility subject to certain conditions. The Act states that any DOE selection of a monitored retrievable storage facility site must be accompanied by an environmental assessment for site selection and a subsequent EIS for licensing, and may not occur until the Secretary has characterized a geologic repository site and recommended to the President the approval of the geologic repository site. At present, no monitored retrievable storage facility site has been proposed. The Act also provides for a negotiated, volunteer process for siting a monitored retrievable storage facility. The Act allows the negotiated siting of a monitored retrievable storage facility by this process before recommendation of a geologic repository site. The Act requires the preparation of (1) an environmental assessment for proposing a negotiated site to Congress, and (2) an EIS for licensing. No monitored retrievable storage site has been proposed under this voluntary process.

DOE prepared two EIS's that supported the programmatic decision to develop a civilian radioactive waste management system and were available to Congress during its consideration of the Act. These two supporting EIS's are:

• Final Environmental Impact Statement: Management of Commercially Generated Radioactive Waste, DOE/EIS–0046–F, 1980, evaluated the environmental impacts of various alternatives associated with the management of commercially generated waste and recommended geologic disposal over other disposal forms; and

• Final Environmental Impact Statement: U.S. Spent Fuel Policy, DOE/EIS–0015, 1980, evaluated the environmental impacts of the storage and transportation of spent nuclear fuel as proposed in the draft Spent Nuclear Fuel Act of 1979. The alternatives evaluated were at-reactor storage, regionalized storage, and centralized storage (i.e., a monitored retrievable storage facility). The last of these was found to have the least environmental impacts.

DOE also prepared other environmental review documents under the Act relative to other aspects of the waste management system. The subject EIS would use pertinent information presented in the following environmental review documents:

• Environmental Assessment, Yucca Mountain Site, Nevada Research and Development Area, Nye County, Nevada, DOE/RW–0073, 1986; and

• Environmental Assessment for a Monitored Retrievable Storage Facility, DOE/RW–0035, 1986.

Additional documents that may be prepared, as required by the Act, include:

• EIS for construction and operation of a geologic repository;

• Environmental Assessment for a negotiated site for a monitored retrievable storage facility;

• Environmental Assessment for the selection of a DOE-sited monitored retrievable storage facility;

• EIS for construction of a monitored retrievable storage facility.

Additional DOE NEPA documentation related to spent nuclear fuel, recently issued or in preparation, includes:

• Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs Draft EIS, June 1994; and

• A Proposed Policy for the Acceptance of Foreign Research Reactor Spent Nuclear Fuel EIS, Notice of Intent, October 21, 1993 (58 FR 54366).

These two documents address spent nuclear fuel that the DOE currently owns or proposes to acquire; the total quantity of such spent nuclear fuel is a small fraction of the current and prospective domestic commercial civilian spent nuclear fuel inventory. Although the DOE-owned fuel is not being specifically considered in the development of the multi-purpose canister, multi-purpose canister-based technology may be appropriate for the DOE-owned spent nuclear fuel.

Supporting Documentation: Copies of the Implementation Plan, as well as the draft and final EISs, will be made available for inspection during business hours at DOE's Freedom of Information Reading Rooms, which are listed below.

Department of Energy Freedom of Information Public Reading Rooms

Albuquerque Operations Office

National Atomic Museum, Building 20358, Wyoming Boulevard, P.O. Box 5400, Albuquerque, NM 871–5400, Attn: Diane Zepeda, (505) 845–4370

Bartlesville Project Office/National Institute for Petroleum and Energy Research

BPO/NIPER Library, U.S. Department of Energy, 220 North Virginia Avenue, P.O. Box 2128, Bartlesville, OK 74003, Attn: Josh Stroman, (918) 337–4971

Dallas Support Office

U.S. Department of Energy, Suite 400, 1440 W. Mockingbird Lane, Dallas, TX 75247, Attn: Gailene Reinhold, (214) 767–7040

Denver Support Office

U.S. Department of Energy, 1075 South Yukon Street, P.O. Box 26247, Lakewood, CO 80226, Attn: Al Hymer, (303) 969–7000 x233

Bonneville Power Administration

U.S. Department of Energy, P.O. Box 3621–ALP, Portland, OR 97208, Attn: Jo Ann Scott, (503) 230–3474/3232

Chicago Operations Office

Document Department, University of Illinois at Chicago, 801 South Morgan Street, Chicago, IL 60607, Attn: Karen Graves, (312) 996–2738

Fernald Area Office

U.S. Department of Energy, Public Information Room, FERMCO, P.O. Box 398705, Cincinnati, OH 45239–8705, Attn: Ken Morgan, (513) 648–3131

Headquarters Office

U.S. Department of Energy, Room 1E–190, Forrestal Bldg., 1000 Independence Ave., SW., Washington, DC 20585, Attn: Denise Diggin, (202) 586–6020

Idaho Operations Office

Idaho Public Reading Room, 1776 Science Center Drive, Idaho Falls, ID 83402, Attn: Carl R. Robertson, (208) 526–1144

Morgantown Energy Technology Center

METC Library, U.S. Department of Energy, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26505, Attn: Matt Marsteller, (304) 291–4183

Richland Operations Office

Washington State University, Tri-Cities Branch Campus, 100 Sprout Road, Richland, WA 99352, Attn: Terri Traub, (509) 376–8583

Rocky Flats Field Office

Front Range Community, College Library, 3645 West 112th Avenue, Westminster, CO 80030, Attn: Will-Ann Lamsens, (303) 469–4435

Nevada Operations Office

U.S. Department of Energy, Public Reading Room, 2753 South Highland Drive, P.O. Box 98518, Las Vegas, NV 89193–8518, Attn: Charlotte Cox, (702) 295–1459

Oak Ridge Operations Office

U.S. Department of Energy, Public Reading Room, 200 Administration Road, P.O. Box 2001, Oak Ridge, TN 37831–8510, Attn: Jane Greenwalt, (615) 576–1216

Oakland Operations Office

U.S. Department of Energy, Public Reading Room, EIC, 8th Floor, 1301 Clay Street, Oakland, CA 94612–5208, Attn: Lauren McNair, (510) 637–1762

Savannah River Operations Office

Gregg-Granite Library, Univer. of S. Carolina—Aiken, 171 University Parkway, Aiken, SC 29801, Attn: James M. Gaver, (803) 725–2889

Pittsburgh Energy Technology Center

U.S. Department of Energy, Building 922/M210, P.O. Box 10940800, Pittsburgh, PA 15236, Attn: Ann C. Dunlap, (412) 892–6167

Southeastern Power Administration

U.S. Department of Energy, Legal Library, Samuel Elbert Building, Public Square, Elberton, GA 30635–2496, Attn: Joel W. Seymour, (706) 283–9911

Seattle Support Office

U.S. Department of Energy, 800 Fifth Avenue, #3950, Seattle, WA 98104, Attn: Kathy Vega, (206) 553–1132

Southwestern Power Administration

U.S. Department of Energy, Public Reading Room, P.O. Box 1619, Tulsa, OK 74101, Attn: Marti Ayers, (918) 581–7426

Strategic Petroleum Reserve Project Management Office

U.S. Department of Energy, SPRPMO/SEB Reading Room, 900 Commerce Road, New Orleans, LA 70123, Attn: Ulyess Washington, (504) 734–4243

Superconducting Super Collider Termination Project Office

U.S. Department of Energy, 2550 Beckleymeade Avenue, Dallas, TX 75237, Attn: Gina Dan, (214) 708–2526

Issued in Washington, DC., on October 19, 1994.

Thomas A. Rollow,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 94–26361 Filed 10–20–94; 11:41 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. CP94–763–000]

Northern Natural Gas Co.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Peoples/L.S. Power-Cottage Grove Project and Request for Comments on Environmental Issues

October 18, 1994.

The staff of the Federal Energy Regulatory Commission (FERC or the Commission) will prepare an environmental assessment (EA) that will discuss environmental impacts of the construction and operation of facilities proposed in the Peoples/L.S. Power-Cottage Grove Project.[1] This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether or not to approve the project.

Summary of the Proposed Project

Northern Natural Gas Company (Northern Natural) wants Commission authorization to:

(1) Construct and operate about 1.42 miles of 30-inch-diameter pipeline to loop its existing 24-inch-diameter pipeline (MNM 86501) in Washington County, Minnesota;

(2) Construct a new L.S. Power-Cottage Grove Town Border Station (TBS) in Washington County, Minnesota; and

(3) Install and operate an electric-motor driven 1,250-horsepower (hp) compressor at the existing Farmington Compressor Station in Dakota County, Minnesota.

The proposed facilities will be used to provide about 29,120 million cubic feet per day of natural gas to Peoples Natural Gas Company and L.S. Power-Cottage Grove Limited Partnership's planned L.S. Power-Cottage Grove Cogeneration Plant in Washington County, Minnesota.

The general location of these facilities is shown in appendix 1.[2]

Land Requirements for Construction

Northern Natural proposes to use a 75-foot-wide construction right-of-way (ROW) for the loop. Through residential areas, Northern Natural would use a 50-foot-wide construction ROW to minimize disturbance to residences.

Ten temporary work areas outside the construction right-of-way would be required at road and railway crossings, a retention pond, and at the beginning and end of the pipeline loop. Each of these extra work areas would occupy an additional 0.03- to 0.34-acre of land. Northern would also use a 0.62-acre pipe storage area near the beginning of the loop.

The proposed L.S. Power-Cottage Grove TBS would require about 0.26 acre of land. The compressor addition at the existing Farmington Compressor

[1] Northern Natural Gas Company's application was filed with the Commission pursuant to section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference Room, Room 3104, 941 North Capitol Street, N.E., Washington, D.C. 20426 or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

Station would not require additional land.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from a major Federal action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. Our EA will give the Commission the information it needs to do that. If the EA concludes that the projects would result in significant environmental impacts, we will prepare an environmental impact statement. Otherwise we will prepare a Finding of No Significant Impact.

NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues, and to separate these from issues that are insignificant and do not require detailed study.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed projects under these general subject headings:

- geology and soils
- air quality and noise
- endangered and threatened species
- vegetation and wildlife
- land use
- water resources, fisheries and wetlands
- cultural resources
- pipeline safety

We will also evaluate possible alternatives to the projects, or portions of the projects, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for these proceedings. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Northern Natural. Keep in mind that this is a preliminary list; the list of issues will be added to, subtracted from, or changed based on your comments and our own analysis. Issues are:

- Construction of the pipeline would take place on or adjacent to about 70 residential properties.
- The pipeline would possibly cross potential habitat for the loggerhead shrike, a state-listed threatened species.
- The pipeline may cross or be near historic structures and archeological sites.
- The addition of a compressor could affect noise levels in the vicinity of the compressor station.

Public Participation

You can make a difference by sending a letter with your specific comments or concerns about the project. We are particularly interested in alternatives to the proposals (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Washington, D.C. 20426;
- Reference Docket No. CP94–763–000;
- Send a copy of your letter to: Mr. Hugh Thomas, Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., N.E., Room 7312, Washington, D.C. 20426; and;
- Mail your comments so they will be received in Washington D.C. on or before *November 21, 1994.*

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceedings or an "intervenor". Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a Motion to Intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) which is attached as appendix 2.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by Section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. *You do not need intervenor status to have your scoping comments considered.*

Additional information about the proposed project is available from Mr. Hugh Thomas, EA Project Manager, at (202) 208–0980.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26237 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER95–11–000, et al.]

Southern Company Services, Inc., et al.; Electric Rate and Corporate Regulation Filings

October 17, 1994.

Take notice that the following filings have been made with the Commission:

1. Southern Company Services, Inc.

[Docket No. ER95–11–000]

Take notice that on October 6, 1994, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a Service Agreement dated as of September 14, 1994, between LG&E Power Marketing Inc. and SCS for service under the Short-Term Non-Firm Transmission Service Tariff of Southern Companies.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Southern Company Services, Inc.

[Docket No. ER95–12–000]

Take notice that on October 6, 1994, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a Service Agreement dated as of September 19, 1994, between Enron Power Marketing, Inc. and SCS for service under the Short-Term Non-Firm Transmission Service Tariff of Southern Companies.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Niagara Mohawk Power Corporation

[Docket No. ER95–13–000]

Take notice that on October 6, 1994, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Louis Dreyfus Electric Power, Inc. (LDE) dated September 27, 1994, providing for certain transmission services to LDE.

Copies of this filing were served upon LDE and the New York State Public Service Commission.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of Colorado

[Docket No. ER95–14–000]

Take notice that on October 6, 1994, Public Service Company of Colorado (Public Service) tendered for filing two proposed amendments to its Contract for Interconnections and Transmission Service with Tri-State Generation and Transmission Association, Inc. (Tri-State), as contained in Public Service's Rate Schedule FERC No. 24. Under the proposed amendments, Public Service is seeking to revise the points of delivery associated with the transmission service it provides for Tri-State pursuant to Article 8 of the Contract. These proposed amendments will have no impact on the rates or revenues collected for service under this rate schedule.

Public Service requests an effective date of November 1, 1994, for the proposed amendments.

Copies of the filing were served upon Tri-State Generation and Transmission Association, Inc., and state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado Office of Consumer Counsel.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Commonwealth Edison Company

[Docket No. ER95–15–000]

Take notice that on October 6, 1994, Commonwealth Edison Company (ComEd), tendered for filing proposed changes in its FERC Electric Tariff, Rates 26, 27, and 28. The proposed changes amend the Electric Service Contracts between ComEd and the Cities of Batavia, Illinois (Batavia), Naperville, Illinois (Naperville), and St. Charles, Illinois (St. Charles). These amendments extend the current contracts for an additional ten years at negotiated rates.

A copy of the filing has been served upon the Cities of Batavia, Naperville and St. Charles and the Illinois Commerce Commission.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp

[Docket No. ER95–16–000]

Take notice that on October 7, 1994, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the RESTATED SURPLUS FIRM CAPACITY SALE AGREEMENT, Contract No. DE–MS79–88BP92497, dated September 27, 1994, between Bonneville Power Administration (Bonneville) and PacifiCorp (Restated Agreement). PacifiCorp also requests that the Commission cancel PacifiCorp Rate Schedule FERC No. 347, including Supplements No. 1 and 2 thereto, because such services are being replaced by the Restated Agreement. PacifiCorp requests that the Commission grant a waiver of its prior notice requirements in accepting the Restated Agreement for filing.

Copies of this filing were supplied to Bonneville, the Public Utility Commission of Oregon, the Utah Public Service Commission, the Washington Utilities and Transportation Commission and the Public Utilities Commission of the State of California.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Company Massachusetts Electric Company

[Docket No. ER95–17–000]

Take notice that on October 7, 1994, New England Power Company (NEP) and Massachusetts Electric Company, tendered for filing an Interconnection and Support Agreement with the Marblehead (Mass.) Municipal Light Department. According to NEP and MECo, the Agreement provides for upgraded transmission service to Marblehead through the new Railyard No. 49 Substation and through new distribution lines.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Monongahela Power Company

[Docket No. ER95–18–000]

Take notice that on October 7, 1994, Allegheny Power Service Corporation, on behalf of Monongehela Power Company, submitted Supplement No. 1 to a 1994 Wholesale Customer Rate Changes submitted for filing on September 29, 1994. Supplement No. 1 includes a Letter Agreement that memorializes future negotiation procedures as agreed to by Mon Power and its wholesale customers.

Copies of the filing were served upon the jurisdictional customers and the Public Utility Commissions.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Northwest Regional Transmission Association

[Docket No. ER95–19–000]

Take notice that on October 7, 1994, Portland General Electric Company (PGE), tendered for filing on behalf of itself, Puget Sound Power & Light Company, City of Tacoma Department of Public Utilities, Western Montana Generation and Transmission Cooperative, Inc., Pacific Northwest Generating cooperative, and Tenaska Power Services (together, the Filing Parties) the Northwest Regional Transmission Association Governing Agreement. The Governing Agreement sets forth terms and conditions to promote coordinated transmission planning, efficient use of transmission capacity, competition in generation markets and reasonable terms, conditions and pricing for transmission services and interconnections.

Comment date: October 31, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Electric and Gas Company

[Docket No. ER95–20–000]

Take notice that on October 7, 1994, Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey, tendered for filing an Agreement for the sale and purchase of Capacity and Energy between PSE&G and the Borough of South River, New Jersey (South River). Pursuant to the Agreement, PSE&G proposes to begin selling power effective October 10, 1994, in an effort to provide economic benefit to South River.

PSE&G requests the Commission to waive its notice requirements under § 35.3 of its Regulations and such other waivers as may be necessary in order to permit the Capacity and Energy Sale and Purchase Agreement to become effective within forty-eight (48) hours following its filing with the Commission.

Copies of the filing have been served upon South River and the New Jersey Board of Regulatory Commissioners.

Comment date: October 31, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26286 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. ER94–1675–000, et al.]

Wisconsin Electric Power Company, et al.; Electric Rate and Corporate Regulation Filings

October 14, 1994.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Electric Power Company

[Docket No. ER94–1675–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on October 6, 1994, tendered for filing an amendment to Docket No. ER94–1675–000. Copies of the Transmission Service Agreement between Wisconsin Electric and Rainbow Energy Marketing Corporation Service Agreement allows Rainbow to receive transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume 1, Rate Schedule T–1.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the amendment have been served on Rainbow and the Public Service Commission of Wisconsin.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Electric Power Company

[Docket No. ER95–1–000]

Take notice that on October 3, 1994, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Enron Power Marketing, Inc (Enron). The Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff which was accepted by FERC by letter order dated June 14, 1994, (Docket No. ER94–1179–000.

Wisconsin Electric requests an effective date of sixty days from date of filing.

Copies of the filing have been served on Enron and the Public Service Commission of Wisconsin.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Niagara Mohawk Power Corporation

[Docket No. ER95–2–000]

Take notice that on October 3, 1994, Niagara Mohawk Power Corporation (NMPC) tendered for filing with the Federal Energy Regulatory Commission an executed Service Agreement between NMPC and Catex Vitol Electric, Inc. (CVE). This Service Agreement specifies that CVE has signed on to and has agreed to the terms and conditions of NMPC's Power Sales Tariff designated as NMPC's FERC Electric Tariff, Original Volume No. 2. This Tariff, approved by FERC on April 15, 1994, and which has an effective date of March 13, 1993, will allow NMPC and CVE to enter into separately scheduled transactions under which NMPC will sell to CVE capacity and/or energy as the parties may mutually agree.

NMPC requests an effective date of September 28, 1994, NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and CVE.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER95–3–000]

Take notice that on October 3, 1994, PECO Energy Company (PECO), tendered for filing an Agreement between PECO and AES Power, Inc. (AES) dated September 22, 1994.

PECO states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to AES. In order to optimize the economic advantage to both PECO and AES, PECO requests that the Commission waive its customary notice period and permit the agreement to become effective on October 5, 1994.

PECO states that a copy of this filing has been sent to AES and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. New England Power Company

[Docket No. ER95–4–000]

Take notice that on October 3, 1994, New England Power Company (NEP), tendered for filing five (5) notices of termination for service under NEP's FERC Electric Service Tariff, Original Volume No. 3.

The service being terminated provides for transmission over NEP's system of entitlements in the Point LePreau unit in Canada.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER95–5–000]

Take notice that on October 3, 1994, Commonwealth Edison Company (ComEd), tendered for filing a revision to its Power Sales tariff (PS–1 Tariff) and submitted six Service Agreements; four of which are dated September 12, 1994, establishing Electric Clearinghouse, Inc. (ECI), Heartland Energy Services, Inc. (Heartland), and Northern States Power Company (NSP) as customers under the terms of ComEd's Power Sales Tariff PS–1, and ECI as a customer under the terms of ComEd's Transmission Service Tariff TS–1 (TS–1 Tariff), and two of which are dated September 15, 1994, establishing MidCon Power Services Corporation (MidCon) as customers under both the PS–1 Schedule 4, Negotiated Capacity. The Commission has previously designated the PS–1 Tariff as FERC Electric Tariff, Original Volume No. 2. The Commission has previously accepted the TS–1 Tariff for filing and suspended rates (as modified) in Docket No. ER93–777–000.

For PS–1 Tariff revision and new Power Sales Schedule 4, ComEd requests an effective date of December 3, 1994, that is 60 days after the submittal of this filing. For the six new Service Agreements, ComEd requests an effective date of September 15, 1994, and accordingly seeks waiver of the Commission's notice requirements.

Copies of this filing were served upon current customers, ECI, Heartland, MidCon, NSP and the Illinois Commerce Commission.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Company

[Docket No. ER95–6–000]

Take notice that on October 4, 1994, New England Power Company (NEP), tendered for filing a Notice of Termination for Rate Schedule No. 366 and Supplement No. 1 thereto. NEP states that it has served notice of this filing upon the affected party.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Associated Power Service, Inc.

[Docket No. ER95–7–000]

Take notice that on October 4, 1994, Associated Power Services, Inc. (APSI), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective December 3, 1994.

APSI intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where APSI sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Neither APSI nor any of its affiliates are in the business of generating, transmitting, or distributing electric power. Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Carolina Power & Light Company

[Docket No. ER95–10–000]

Take notice that on October 5, 1994, Carolina Power & Light Company (CP&L), filed with the Commission its Tariff No. 1 for Sales of Capacity and Energy. CP&L states that the Tariff provides for voluntary sales of capacity and energy by CP&L to buyers at rates to be negotiated by the buyer and CP&L at the time of each transaction under the Tariff. The charges for such transactions cannot exceed the maximum charges set out in the Tariff. CP&L requests an effective date for the Tariff of December 5, 1994.

Comment date: October 28, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. Maine Public Service Company

[Docket No. ER95–21–000]

Take notice that on October 7, 1994, Maine Public Service Company (Maine Public) filed an executed Service Agreement with Rainbow Energy Marketing Corporation. Maine Public states that the service agreement is being submitted pursuant to its tariff provision pertaining to the short-term non-firm sale of capacity and energy which establishes a ceiling rate at Maine Public's cost of service for the units available for sale.

Maine Public requests that the service agreement become effective on October 1, 1994, and requests waiver of the Commission's regulations regarding filing.

Comment date: October 28, 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26285 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–P–M

[Project Nos. 11497–000, et al.]

Hydroelectric Applications [Kodiak Electric Association, Inc. et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11497–000.

c. *Date filed:* September 1, 1994.

d. *Applicant:* Kodiak Electric Association, Inc.

e. *Name of Project:* Leanne Lake Hydropower Project.

f. *Location:* In Leanne Lake basin and another unnamed basin of Kizhuyak Bay on Kodiak Island, Alaska. T28S, R22W in sections 19, 20, 30, 31, and 32.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Mitchell R. Katzel, Project Manager, Trihey & Associates, 4180 Treat Blvd., Suite N, Concord, CA 94518, (510) 689–8822.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* December 7, 1994.

k. *Description of Project:* The proposed project, which would be entirely on non-federal lands, would include two developments. The first development would consist of: (1) A 15-foot-high dam constructed at the outlet of the existing No-Name Lake raising the water surface level 12 feet to create a 22-acre impoundment; (2) a 16-inch-diameter, 6,150-foot-long penstock; (3) a powerhouse containing an unspecified number of generating units with an installed capacity of 1.4 MW; (4) a short transmission line interconnecting with an existing Alaska Energy Authority transmission line; and (5) appurtenant facilities.

The second development would consist of: (1) The existing Leanne Lake; (2) a siphon intake in that lake; (3) a 16-inch-diameter, 5,825-foot-long penstock; (4) a powerhouse containing an unspecified number of generating units with a total installed capacity of 1.4 MW; (5) a short transmission line interconnecting with an existing Alaska Energy Authority transmission line; and (6) appurtenant facilities.

No new access roads will be needed to conduct the studies.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

2 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11498–000.

c. *Date filed:* September 2, 1994.

d. *Applicant:* Sealaska Corporation.

e. *Name of Project:* Reynolds Creek Water Power Project.

f. *Location:* On Reynolds Creek, near the village of Hydaburg, in Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Leo H. Barlow, CEO, Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801–1276, (907) 586–1512.

i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.

j. *Comment Date:* December 7, 1994.

k. *Competing Application:* Upper Reynolds Creek Project, FERC No. 11480–000, Haida Corporation.

l. *Description of Project:* The proposed project would be located entirely on non-Federal lands, and would consist of: (1) A 10-foot-high concrete dam raising the water surface elevation of the applicant's existing Mellen Lake about 8 feet; (2) a 2,600-foot-diameter penstock; (3) a powerhouse containing one generating unit with an installed

capacity of 750 kW; (4) a transmission line of undetermined location between 10.5 and 18.5 miles long, interconnecting with an existing Alaska Power and Telephone transmission line; and (5) appurtenant facilities.

No new access roads will be needed to conduct the studies.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

3 a. *Type of Application:* Amendment of License.

b. *Project No.:* 5728–014.

c. *Date Filed:* April 20, 1994.

d. *Applicant:* Paul C. Preble.

e. *Name of Project:* Sandy Hollow Power Project.

f. *Location:* State—New York, County—Jefferson, Township—Philadelphia, Body of Water—Indian River.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Gary G. Manter, Blue Water Hydro, 80 Rust Street, Hamilton, MA 01982, (617) 468–1598.

i. *FERC Contact:* Hong S. Tung, (202) 219–2663.

j. *Comment Date:* November 21, 1994.

k. *Description of Amendment:* The licensee of Sandy Hollow PowerProject applied for an amendment of license to increase the installed capacity by adding a 34" Leffel vertical shaft, fixed blade, propeller-type runner. The installed capacity of this new addition is 160 kw and water to the new turbine will be supplied by a new siphon-fed penstock to enter through the side of the powerhouse and into the original open flume, which was in use until the early 1960's. The generator will be mounted on the adjacent wall of the powerhouse. All the existing and new equipment will be controlled by a computer which will be installed so pond level can be maintained with a great degree of accuracy.

l. *This notice also consists of the following standard paragraphs;* B, C1, and D2.

4 a. *Type of Application:* New Major License.

b. *Project No.:* 2433–004.

c. *Date Filed:* December 17, 1991.

d. *Applicant:* Wisconsin Public Service Corporation.

e. *Name of Project:* Grand Rapids Hydro Project.

f. *Location:* On the Menominee River in Marinette County, Wisconsin, and Menominee County, Michigan.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. R.A. Krueger, Senior Vice President, Wisconsin Public Service Corporation, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, (414) 433–1598.

i. *FERC Contact:* Tom Camp (202) 219–2832.

j. *Deadline Date:* See paragraph D9.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time—see attached paragraph D9.

l. *Description of Project:* The project as licensed consists of the following: (1) The existing Grand Rapids Dam, 1,402 feet long, composed of (a) A 900-foot long concrete core earth fill section, (b) a 208-foot long reinforced concrete ungated ogee spillway with 24-inch high flashboards extending along the crest, (c) a 278-foot long reinforced concrete gated spillway with eight 12.0 by 12.5-foot Tainter gates, 141 feet long, and seven 14.0 by 14.5-foot Tainter gates, 122 feet long, (d) a log sluice and fishway, both currently unusable; (2) an existing one story poured concrete boiler house, used to melt ice in area of Tainter gates; (3) an existing impoundment with a surface area of 300 acres and a total volume of 2,141 acre-feet at the normal maximum surface elevation of 664.45 NGVD; (4) an existing power canal, 3,200-feet long and approximately 10-feet deep; (5) an existing concrete guard lock bridge, 16-feet high by 145-feet long, with thirteen 10-foot locks; (6) an existing powerhouse, a 121-foot long by 35-foot wide reinforced concrete structure, containing (a) a trash sluice with control gate, (b) three twin Francis turbines, manufactured by S. Morgan Smith and rated at 1,700 hp, one double runner Francis turbine, manufactured by General Electric and rated at 2,500 hp, and one DH horizontal turbine, manufactured by Allis-Chalmers and rated at 2,400 hp, (c) two 3-phase, 60-cycle, horizontal type generators, manufactured by Westinghouse and rated at 1,100 Kw, one 3-phase, 60-cycle, horizontal type generator, manufactured by General Electric and rated at 1,400 Kw, and one 3-phase, 60-cycle, generator, manufactured by Allis-Chalmers and rated at 1,900 Kw; and (7) existing appurtenant facilities.

No changes are being proposed for this new license. The applicant estimates that the installed project capacity is 7.02 MW with an average annual generation of 40 GWH. The project dam and facilities are owned by the applicant. The existing project would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

m. *Purpose of Project:* Project power would be utilized by the applicant for sale to its customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D9.

o. *Available Location of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, N.E., Room 3104, Washington, D.C., 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Wisconsin Public Service Corporation, 700 North Adams Street, P.O. Box 19002, Green Bay, WI 54307, or by calling (414) 433–1598.

5 a. *Type of Application:* Approval To Remove 1.15 Acre Parcel From Project Boundary.

b. *Project No:* 1982–015.

c. *Date Filed:* September 5, 1994.

d. *Applicant:* Northern States Power Company.

e. *Name of Project:* Holcombe Hydroelectric Project.

f. *Location:* Chippewa County, Holcombe, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Lloyd D. Everhart, Northern States Power Company, Hydro Relicensing, 100 North Barstow Street, P.O. Box 8, Eau Claire, WI 54702–0008, (715) 839–2621.

i. *FERC Contact:* Jean Potvin, (202) 219–0022.

j. *Comment Date:* December 5, 1994.

k. *Description of Project:* The licensee proposes selling a 1.15 acre parcel to the current lessee. The parcel would be used as a single family home site. The licensee also proposes removing the parcel from the project boundary.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed

project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (December 6, 1994 for Project No. 2433–004). All reply comments must be filed with the Commission within 105 days from the date of this notice (January 20, 1995 for Project No. 2433–004).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) Bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: October 18, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26236 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP95–14–000, et al.]

Petal Gas Storage Company, et al.; Natural Gas Certificate Filings

October 14, 1994.

Take notice that the following filings have been made with the Commission:

1. Petal Gas Storage Company

[Docket No. CP95–14–000]

Take notice that on October 6, 1994, Petal Gas Storage Company (Petal), P.O. Box 2100, Houston, Texas 77252, filed in Docket No. CP95–14–000 an application pursuant to Section 7(c) of the Natural Gas Act (NGA) requesting a blanket certificate of public convenience and necessity authorizing Petal to engage in any of the activities specified in subpart F of part 157 of the Commission's Regulations, as may be amended from time to time, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that Petal is a "natural gas company" within the meaning of the NGA and as determined by the Commission in Docket No. CP93–69–000. It is stated that Petal owns and operates an underground natural gas storage field and related pipeline facilities in Mississippi. Petal asserts that it has no outstanding budget-type certificates and no currently effective sales rate schedules. Petal states that it does have currently effective storage rate schedules, providing firm storage service under Rate Schedule FSS and interruptible storage service under Rate Schedule ISS.

Comment date: November 4, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP95–15–000]

Take notice that on October 11, 1994, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed a prior notice request with the Commission in Docket No. CP95–15–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install two 8-inch diameter taps and associated piping in Calhoun County, Michigan, under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request that is open to the public for inspection.

Panhandle proposes to install two 8-inch diameter taps in order to provide bi-directional flow for delivery and receipt of up to 60,000 Mcf of natural gas per day for the Lee 8 Storage Partnership (Lee 8) in Calhoun County. Panhandle states that the proposed taps would interconnect with Lee 8's 12-inch pipeline and enable Panhandle to transport gas to and from the Lee 8 storage field, also in Calhoun County. Lee 8 would reimburse Panhandle for the estimated $170,400 construction cost for the proposed facilities.

Comment date: November 28, 1994, in accordance with Standard Paragraph G at the end of this notice.

3. Colorado Interstate Gas Company

[Docket No. CP95–16–000]

Take notice that on October 11, 1994, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP95–16–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, and 157.216) for authorization to abandon the existing Franktown Meter Station facilities and to construct new delivery facilities in Douglas County, Colorado under CIG's blanket certificate issued in Docket No. CP83–21–000 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.

CIG proposes to abandon the existing Franktown Meter Station facilities and to construct new delivery facilities capable of increased deliverability to Peoples Natural Gas (Peoples) in Douglas County Colorado. CIG states that the increase in daily deliveries at the Franktown delivery point will be accompanied by corresponding reduced deliveries at other delivery points to Peoples within existing contract entitlements.

Comment date: November 28, 1994, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it 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 to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

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 authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26304 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP93–198–002]

Alabama-Tennessee Natural Gas Co.; Notice of Proposed Change in FERC Gas Tariff

October 18, 1994.

Take notice that on October 14, 1994, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No.

1, the following tariff sheet, with an effective date of October 1, 1994:

Seventh Revised Sheet No. 4

According to Alabama-Tennessee, this filing is being made to comply with Section 33.4 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, relating to its recovery of stranded upstream capacity, and reflects the elimination of its currently effective Transportation Cost Rate Adjustment (TCRA).

Alabama-Tennessee has requested that the Commission grant such waivers as may be necessary to permit the tariff sheet to become effective as proposed. Alabama-Tennessee stated that any such waiver should be granted because (1) The proposed tariff revision would result in a reduction in all of its currently effective rates for firm service and would not increase any of its rates for interruptible service, and (2) the provisions of Section 33.4 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 requires that the TCRA only be effective for a twelve-month period.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protest should be filed on or before October 25, 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26229 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–2–21–001]

Columbia Gas Transmission Corp.; Notice of Proposed Changes in FERC Gas Tariff

October 18, 1994.

Take notice that on October 14, 1994 Columbia Gas Transmission Corporation (Columbia) tendered for filing the following proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective October 1, 1994:

Substitute Sixth Revised Sheet No. 25
Substitute Sixth Revised Sheet No. 26
Substitute Sixth Revised Sheet No. 27
Substitute Sixth Revised Sheet No. 28
Substitute Seventh Revised Sheet No. 25
Substitute Seventh Revised Sheet No. 26
Substitute Seventh Revised Sheet No. 27
Substitute Seventh Revised Sheet No. 28

Columbia states that it is tendering this filing in compliance with an order issued by the Federal Energy Regulatory Commission (Commission) on September 30, 1994 in Docket No. TM95–2–21–000 (Order). The Order required Columbia to file revised tariff sheets incorporating current rates for Texas Eastern Transmission Corporation.

On August 31, 1994, Columbia also made a compliance filing in Docket No. RS92–5–000, et al., to reflect revised rates effective October 1, 1994. Inasmuch as the TCRA rates set forth in the instant compliance filing affect the TCRA rate component of the total effective rate contained in the aforesaid Docket No. RS92–5–000, et al., compliance filing, Columbia is filing herein to revise the Seventh Revised Sheet Nos. 25–28 as well.

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. All such protests should be filed on or before October 25, 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 Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26235 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–24–000]

Columbia Gas Transmission Corp.; Notice of Request Under Blanket Authorization

October 18, 1994.

Take notice that on October 14, 1994, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325–1273, filed in Docket No. CP95–24–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a new measuring and delivery facility for interruptible transportation service for Shenandoah Gas Company (Shenandoah), a subsidiary of Washington Gas Light Company, for ultimate service for Valley Asphalt Products, Inc. (Valley) under Columbia's blanket certificate issued in Docket No. CP83–76–000, pursuant to Section 7(c) 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.

Columbia proposes a new measuring and delivery facility to be located in Shenandoah County, Virginia. Columbia states that the new facility will consist of a meter set, a two-inch mainline tap, and inlet separator. Columbia indicates it will transport approximately 1,096 Dekatherms per day on an interruptible basis for Shenandoah under its Part 284 blanket certificate. Columbia further states that the proposed facility will not have an impact on its peak day or annual deliveries. Columbia also indicates that the estimated cost for this proposed facility will be $56,210. Columbia also states that Shenandoah has agreed to reimburse it for the total cost of construction, plus any gross-up for tax purposes.

Any person or the Commission Staff may, within 45 days of the issuance if the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26227 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–81–009 and RP91–26–011]

El Paso Natural Gas Co.; Notice of Report of Refunds

October 18, 1994.

Take notice that on October 14, 1994, El Paso Natural Gas Company (El Paso) submitted, in accordance with ordering paragraphs (B) and (D), respectively, of the Federal Energy Regulatory Commission's (Commission) Order

Affirming Initial Decision issued at Docket No. RP90–81–000, et al., and Order on Rehearing at Docket No. RP91–26–000, et al., both issued on June 16, 1994, its Report of Refunds.

El Paso states that refunds have been distributed to El Paso's customers entitled thereto.

El Paso states that on September 30, 1994, it distributed refunds totaling $34,415,516.99 inclusive of interest to its customers entitled thereto. El Paso states that the total refund was comprised of $11,982,065.92 distributed to sales customers subject to direct bill; $794,767.34 distributed to sales customers who paid a bundled, city-gate sales rate which included the Throughput Surcharge and $21,638,683.73 distributed to transportation customers. El Paso states that the applicable refund periods were March 1, 1990 through April 30, 1993 for direct bill (when all ineligible costs were fully recovered); March 1, 1990 through December 31, 1991 for sales (when bundled, city-gate sales services ceased); and March 1, 1990 through July 31, 1994 for transportation.

El Paso states that copies of the report were served upon all of El Paso's interstate pipeline customers who received a refund distribution and all interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests should be filed on or before October 25, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26228 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–11–000]

K N Interstate Gas Transmission Co.; Notice of Proposed Changes in FERC Gas Tariff

October 18, 1994.

Take notice that on October 13, 1994, K N Interstate Gas Transmission Co. (KNI) tendered a filing pursuant to Article 26.1 of the General Terms and Conditions of Second Revised Volume No. 1–B of its FERC Gas Tariff a limited filing under Section 4 of the Natural Gas Act to direct bill its June 30, 1994, Account No. 191 balances to the former jurisdictional sales customers of K N Energy, Inc. (KNE). Article 26.1 permits KNI nine months from the implementation date of its restructuring to resolve billing disputes or out-of-period costs affecting Account No. 191. This nine-month period ended June 30, 1994. KNI proposes to bill KNE's former wholesale customers the jurisdictional portion of the Account No. 191 balance as of June 30, 1994, which is $1,550,245. This balance is comprised of $1,530,332 Commodity, $3,304 Demand 1 and $16,609 Demand 2. The demand balances are further broken down by zones. KNI requests the proposed tariff sheets be made effective December 1, 1994.

KNI states that copies of the filing were served upon KNI's former jurisdictional sales customers, and interested public bodies.

Any person desiring to be heard or to make any protest with reference to this 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, 385.214). All such motions or protests should be filed on or before October 25, 1994. All protests filed with the Commission will be considered by it 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26233 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM95–1–16–001]

National Fuel Gas Supply Corp.; Notice of Compliance Filing

October 18, 1994.

Take notice that on October 14, 1994, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Seventh Revised Sheet No. 225 to be effective October 1, 1994.

National states that this tariff sheet is filed in compliance with the Commission's September 29, 1994, order in the above-captioned proceeding, requiring that National revise the amount of Commission-approved Tennessee Gas Pipeline Company (Tennessee) take-or-pay costs National seeks to flowthrough, to reflect the recalculated level approved by the Commission on September 15, 1994, in Tennessee's take-or-pay proceeding at Docket No. RP94–261–001.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protest should be filed on or before October 25, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26234 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–346–006 and RP94–87–007]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

October 18, 1994.

Take notice that on October 14, 1994, Natural Gas Pipeline Company of America (Natural) filed as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, revised tariff sheets to be effective November 1, 1994.

Natural states that the purpose of the filing is to comply with the Commission's "Order Accepting Tariff Sheets Subject to Conditions, Approving Settlements with Modifications, and Granting Clarification" (Order) issued September 29, 1994 in Docket Nos. RP94–346–002, et al. Natural states that the tariff revisions consist of (1) The changes required by the Commission in the Natural Customer Group (NCG) Settlement (and related settlements) and changes to extend the terms of the NCG Settlement to Industrial Energy Applications, Inc.; and (2) new tariff provisions embodying the G Customer Settlement, as modified by the Order.

Natural states that copies of its filing were served on all parties to this proceeding, jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission,

825 North Capitol Street, N.E., Washington, D.C. 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 October 25, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26230 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–380–002, and RP94–67–014]

Southern Natural Gas Co.; Notice of GSR Revised Tariff Sheets

October 18, 1994.

Take notice that on October 14, 1994, Southern Natural Gas Company (Southern) filed in accordance with the Commission's Order of September 29, 1994, Accepting and Suspending tariff sheets Subject to Refund and Conditions, and Consolidating Proceedings in Docket Nos. RP94–380–000 and RP94–67–000, *et al.* Southern submitted the following alternate tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, with the proposed effective date of October 1, 1994:

First Alt. First Substitute Twelfth Revised Sheet No. 15
First Alt. First Substitute Twelfth Revised Sheet No. 17
First Alt. First Substitute Eighth Revised Sheet No. 18

Southern states that copies of the filing were served upon Southern's customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before October 25, 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 Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26231 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–430–001]

Transcontinental Gas Pipe Line Corp.; Notice of Proposed Changes in FERC Gas Tariff

October 18, 1994.

Take notice that on October 14, 1994, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A to the filing. The tariff sheets are proposed to be effective November 1, 1994.

TGPL states that the purpose of the filing is to supplement TGPL's Account No. 858 Transportation By Others (TBO) filing of September 30, 1994 in Docket No. RP94–430 (September 30 Filing). Specifically, TGPL is filing to correct an error in the Reservation Rate Surcharge component under TGPL's Rate Schedule FT-R applicable to capacity released under incremental firm transportation services which have been assigned or converted from Section 7(c) service to firm transportation service under Part 284. Such rate component under Rate Schedule FT-R should have been at the same level as set forth under Rate Schedule FT. The instant filing revises TGPL's September 30 Filing to correctly set forth the appropriate rates under Rate Schedule FT-R for the aforementioned services.

TGPL states that copies of the instant filing are being mailed to customers, State Commissions, and other interested parties.

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 § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before October 25, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26232 Filed 10–21–94; 8:45 am]

BILLING CODE 6717–01–M

Office of Energy Research

Continuation of Solicitation for Financial Assistance Program Notice 95–01

AGENCY: U.S. Department of Energy (DOE).

ACTION: Annual notice of continuation of availability of grants and cooperative agreements.

SUMMARY: The Office of Energy Research (ER) of the Department of Energy hereby announces its continuing interest in receiving applications for cooperative agreements and grants supporting work in the following programs; Basic Energy Sciences, Biological and Environmental Research, Fusion Energy, Applied Mathematical Sciences, Multi-Program Energy Laboratory—Facilities Support, University Science Education Programs, High Energy and Nuclear Physics, and Energy Research Analysis activities. On September 3, 1992, DOE published in the **Federal Register** (57 FR 40582) a solicitation for this program which contained information about submission of applications, eligibility, limitations, evaluation and selection processes and other policies and procedures which are specified in 10 CFR part 605.

DATES: Applications may be submitted at any time in response to this notice of availability, but, in all cases, must be received by DOE on or before October 31, 1995.

ADDRESSES: Applicants may obtain forms and additional information from Director, Acquisition and Assistance Management Division, Office of Energy Research, ER–64, U.S. Department of Energy, Washington, D.C. 20585 (301) 903–5212. Completed applications must be sent to this same address.

SUPPLEMENTARY INFORMATION: As mentioned above, the solicitation for the Office of Energy Research Financial Assistance Program was published in the **Federal Register.** This solicitation specifies the policies and procedures which govern the application, evaluation, and selection processes for grants and cooperative agreements. It is anticipated that approximately $450 million will be available for award in FY 1995. The DOE is under no obligation to pay for any costs associated with the preparation or submission of an application. DOE reserves the right to fund, in whole or in part, any, all, or none of the

applications submitted in response to this notice.

D. D. Mayhew,

Director, Office of Management, Office of Energy Research.

[FR Doc. 94–26318 Filed 10–21–94; 8:45 am]

BILLING CODE 6450–01–P

[Notice 95–04]

Energy Research Financial Assistance Program Notice 95–04: Terrestrial Carbon Process Research of the Global Change Program

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Health and Environmental Research (OHER) of the Office of Energy Research, U.S. Department of Energy (DOE) hereby announces its interest in receiving applications to support research and analysis of "terrestrial carbon processes" (TCP) that affect changes of atmospheric carbon dioxide (CO_2) concentration. This notice is the second cycle of solicitations for refocused DOE research on terrestrial carbon that was formerly carried out on the global carbon cycle, and on the response of vegetation to CO_2. The refocused research supports the Department's Global Change Research Program (specifically climate change), the U.S. Global Change Research Program (USGCRP), and the Administration's goals to understand and mitigate the rise in greenhouse gases.

This notice requests grant applications for research that will (i) Advance the scientific understanding of terrestrial processes regulating carbon balance of ecosystems that have a major influence on atmospheric CO_2 concentration; (ii) evaluate changes of carbon quantities of ecosystems in relation to the rising concentration of atmospheric CO_2, altered temperature and precipitation regimes, including key interactions of these forcings with other factors affecting carbon processes; and (iii) model terrestrial carbon processes, including mechanistic controls on exchanges of CO_2 with the atmosphere, and approaches for extending ecosystem-level results to regional/global scales. Expected products of TCP research are the quantified relationships and mechanisms of terrestrial ecosystems that affect secular trends and interannual variations of atmospheric CO_2, including the scientific understanding needed to model and predict the role of terrestrial ecosystems in the global carbon cycle. This second cycle of the Terrestrial Carbon Process notice will invite applications from academic institutions.

DATES: Formal applications submitted in response to this notice must be received by 4:30 PM, EST, January 5, 1995, to permit timely consideration for awards in Fiscal Year 1995.

ADDRESSES: Formal applications referencing Program Notice 95–04 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER–64 (GTN), Washington, D.C. 20585, ATTN: Program Notice 95–04. The following address must be used when submitting applications by U.S. Postal Service Express Mail or any commercial mail delivery service, or when hand-carried by the applicant: U.S. Department of Energy, Office of Energy Research, Acquisition and Assistance Management Division, ER–64, 19901 Germantown Road, Germantown, MD 20874.

FOR FURTHER INFORMATION CONTACT: Dr. Roger C. Dahlman, Office of Health and Environmental Research, Environment Sciences Division, ER–74 (GTN), U.S. Department of Energy, Washington, DC 20585, (301) 903–4902/4951, or by Internet address, roger.dahlman@mailgw.er.doe.gov.

SUPPLEMENTARY INFORMATION: The solicited TCP research seeks to enhance the scientific understanding of natural processes of the terrestrial carbon cycle, thereby providing the foundation for conceptual and mathematical models of carbon change in terrestrial ecosystems. Process-based models are sought for extending fundamental knowledge of carbon processes to the global carbon cycle; applications include the capability to quantitatively estimate CO_2 sequestered in terrestrial ecosystems, and, for various emissions scenarios, predictions of the rate of CO_2 increase in the atmosphere. In this context, the research is an important adjunct to policies and actions being considered for slowing the rise of greenhouse gases in the atmosphere. For example, improved understanding of carbon processes will help build scientific foundations for evaluating the effectiveness of policy instruments like the Climate Change Action Plan for slowing the rate of atmospheric CO_2 increase. This research will help provide the scientific basis for quantifying the role of the terrestrial biosphere in regulating changes in atmospheric CO_2, which defines an important forcing for assessment of climate change—a central research activity of the USGCRP and DOE's Global Change research.

While it is recognized that energy-related emissions contribute to the increase of greenhouse gases in the atmosphere, it is also evident that natural earth system processes exert a major control on ultimate atmospheric concentration of the gases. This is especially true for CO_2, where for the past few years the rate of increase of atmospheric CO_2 has fluctuated markedly. Causes of this and other variations are unknown, and the observed phenomena raise questions about whether these fluctuations are due to as yet unexplained natural processes that can affect the rate of atmospheric CO_2 increase.

Priority will be placed on field experiments of physiological/ecological controls of carbon processes; on studies of metabolism/retention of carbon in major terrestrial ecosystems; and on coupled modeling and experimental analysis. This includes research to improve the understanding of metabolic processes of vascular plants, and their influence on CO_2 removal from the atmosphere, including biological, ecological and other factors controlling retention of carbon in soils and biomass of terrestrial ecosystems. While processes to be investigated may range from fundamental studies of plant carbon metabolism (e.g., photosynthesis, respiration, etc.) to ecosystem controls on carbon balance, the experimental/analytical/modeling products must logically contribute to the analysis carbon balance of ecosystems and to natural controls on the global carbon cycle. Applications should identify theoretical underpinnings for the proposed research on processes; identify/describe appropriate field approaches for generating experimental or critical systematic data; and show how the research products contribute to global-scale analysis of atmospheric CO_2 change.

Collaborative studies are encouraged, particularly those involving multidisciplinary research organized around existing *field* facilities designed to manipulate CO_2 concentrations and other global change variables (e.g., temperature, moisture). With emphasis on field investigations, any proposed research using closed-environment chambers and/or greenhouses will be considered only when the mechanism to be elucidated requires unique experimental controls/manipulations that are not practical to carry out in the field. Also, investigators of meritorious applications may be encouraged to conduct research at established field facilities; therefore, to the extent it is

possible, applicants should identify which, if any, existing facilities or locations they would cooperate with if they received an award.

For proposed modeling research, priority will be given to research that demonstrates close linkage of modeling to experimentally derived process information. This includes extrapolation of experimental results and process-based observations to ecosystem or larger scale biotic units; i.e., the development and testing of process-based scaling techniques, and tests of reliability of process models to predict whole-system carbon balances.

Potential applicants are strongly encouraged to submit a brief preapplication in accordance with 10 CFR 600.10(d)(2), which consists of two to three pages of narrative describing research objectives. Preapplications will be used to identify potential opportunities for coordinated experimental and modeling research; to enable DOE to advise potential applicants of DOE's interest in their research ideas; and to serve as a basis for arranging reviews of formal applications.

Preapplications should include no more than two to three double-spaced pages (10 pt), including proposed research; names and telephone numbers for all principal investigators (PIs), co-principal investigators (CO–PIs), and collaborators; and telefax number, Internet address (if available) and mail address for the PI. Preapplications referencing Program Notice 95–04 should be received by November 15, 1994, and sent to Dr. Roger C. Dahlman, Office of Health and Environmental Research, ER–74, Washington, DC 20585, or to the Internet address noted above. A response to the preapplications will be communicated to the PI by December 6, 1994.

The technical portion of the application should not exceed 20 double-spaced 10 pt pages (1-inch margins) plus 5 pages for curriculum vitae and all other data, and should include a short one-half page abstract. Applications that deviate from the terms of this notice will be returned, and will not be considered for support in the second cycle of TCP. Applications received after the deadline will not be eligible for award in Fiscal Year 1995.

Preapplications and formal applications will be reviewed relative to the DOE interests described by this notice and in reference to scope and research priorities of the U.S. Global Climate Change Research Program (USGCRP). Preapplications will be reviewed for relevance to Program needs and interests. Formal applications will be subjected to merit review and will be evaluated against the evaluation criteria set forth in 10 CFR Part 605. The USGCRP priority task on CO_2 and Trace-Gas research (described in the USGCRP draft report entitled, "Special Issue on Enhanced Terrestrial Ecology Research on Global Change" (TECO)) is also a relevant term of reference for evaluating applications responding to this notice.

It is anticipated that approximately $1.5 million will be available for grant awards in Fiscal Year 1995, contingent upon availability of appropriated funds. Previous awards for this type of research have ranged from $100,000 up to $400,000 per year, with most not exceeding $250,000. While most awards are expected to range from $100,000 to $250,000 per year, a few larger awards may be granted for coordinated experiments requiring special designs or facilities for manipulating CO_2 and other environmental variables. Funding of multiple year grant awards is expected, and is also contingent upon availability of appropriated funds.

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures, may be found in the Application Guide for the Office of Energy Research Financial Assistance Program and 10 CFR Part 605. The Application Guide is available from the U.S. Department of Energy, Office of Health and Environmental Research, Environmental Sciences Division, ER–74, Washington, DC 20585. Telephone requests may be made by calling (301) 903–4902. Supplemental documentation including: (1) Examples of existing DOE research on carbon cycle and the response of vegetation to CO_2, the two programs that will be refocused as research on "terrestrial carbon processes," and (2) a Draft USGCRP report on the "Special Issue on Enhanced Terrestrial Ecology Research on Global Change" (TECO) is available upon request by calling (301) 903–4902.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on October 13, 1994.

D.D. Mayhew,

Director, Office of Management, Office of Energy Research.

[FR Doc. 94–26316 Filed 10–21–94; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5096–3]

Clean Air Act Advisory Committee Emergency Notice of Public Meeting

Under Section (10)(a)(2) of Title 5 U.S.C. App 2, "The Federal Advisory Committee Act," notice is hereby given that the Subcommittee on Mobile Source Emissions and Air Quality in the Northeastern States of the Clean Air Act Advisory Committee will meet on Thursday, November 3, 1994 beginning at 8:30 A.M. to 4:30 P.M. at the Washington Renaissance Hotel, located at 999 Ninth Street, N.W., Washington, D.C. 202/898–9000. Because of the pending issues before the Subcommittee, this emergency notice is hereby given. These meetings are open to the public. For further information concerning the meeting, please contact the individuals listed below.

Public notice is also given regarding the extension date of the Subcommittee on Mobile Source Emissions and Air Quality in the Northeastern States from November 10, 1994 to March 15, 1995.

Mobile Source Emissions & Air Quality in the Northern States Subcommittee

The Mobile Source Emissions and Air Quality in the Northeastern States Subcommittee of the Clean Air Act Advisory Committee will conduct a meeting to discuss the pending petition offered by the Ozone Transport Commission regarding the adoption of Low Emission Vehicle Emission Standards in the northeastern states and related issues. In addition, the meeting agenda will include progress reports from various work groups established previously by the Subcommittee.

Further Information and Providing Comments

For additional information concerning these meetings, please contact Mike Shields, Designated Federal Official, Office of Mobile Sources, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C., 20460 (202) 260–7645.

Dated: October 19, 1994.

Rob Brenner,

Director, Office of Policy Analysis and Review, Office of Air and Radiation, U.S. Environmental Protection Agency.

[FR Doc. 94–26382 Filed 10–21–94; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5095–3]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of Meeting of the Citizens Advisory Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Citizens Advisory Committee will hold a meeting at the Marriott Hotel, 555 Canal Street, New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Lipka, Acting Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A meeting of the Citizens Committee of the Gulf of Mexico Program will be held November 18, 1994, at the Marriott Hotel, 555 Canal Street, New Orleans, LA. The committee will meet from 8:30 a.m. to 4:30 p.m. Agenda items will include: Introduction of Program Office Interagency Team; Update on Activities to Organize Broader Federal Participation; Overview of 1994 Program Activities; 1995 Symposium Update; Issue Committee Meeting Reports; State Activity Reports; State Update on CAC Membership Term Initiative; Update on Legislative Activities; and Election of Officers.

The meeting is open to the public.

Douglas A. Lipka,

Acting Director, Gulf of Mexico Program.

[FR Doc. 94–26250 Filed 10–21–94; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–81023; FRL–4910–4]

TSCA Inventory; Notice of Intent to Remove 38 Reported Chemical Substances from the TSCA Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In reviewing the chemical substances included on the Toxic Substances Control Act Chemical Substance Inventory, EPA has concluded that certain chemical substances were incorrectly reported and listed. EPA intends to remove 38 chemical substances from the Inventory and solicits public comment on the appropriateness of that removal.

DATES: Comments must be received by EPA on or before December 8, 1994.

ADDRESSES: Three copies of the written comments should be addressed to: TSCA Document Receipts (7407), Environmental Protection Agency, Office of Pollution Prevention and Toxics, Rm. NE–G099, 401 M St., SW., Washington, DC 20460.

Comments should bear the identifying notation OPPTS–81023. The administrative record supporting this action is available for public inspection in Rm. NE–B607, at the above address, from 12 noon to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: Section 8(b) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.*, requires the Administrator of EPA to identify, compile, and keep current a list of chemical substances which are manufactured, imported, or processed for commercial purposes in the United States. To meet this requirement, EPA promulgated the Inventory Reporting Regulations (40 CFR part 710), which appeared in the **Federal Register** of December 23, 1977 (42 FR 64572). These regulations provided the basis for the initial compilation of the TSCA Chemical Substance Inventory, which identifies chemical substances in U.S. commerce.

The Inventory is a compilation of chemical substances that have been manufactured, imported, or processed in the U.S. for commercial purposes since January 1, 1975. The Inventory's primary purpose is regulatory. It defines a new chemical substance for purposes of implementing section 5(a)(1)(A) of TSCA. If a chemical substance is not included in the Inventory, it is considered a new substance (section 3(9) of TSCA), and a premanufacture notice (PMN) is required at least 90 days before the manufacture or import of such a substance can begin.

For the Inventory to perform its regulatory functions, it must be continuously and accurately updated as new information becomes available. Updated information includes identities of chemical substances newly introduced into U.S. commerce and corrections for previously reported information. Recognizing industry's need for making corrections to incorrectly submitted Inventory reports, EPA announced, in the **Federal Register** of July 29, 1980 (45 FR 50544), that it would accept certain types of corrections related to substances previously reported for the Inventory. The types of corrections specified in the July 29, 1980 **Federal Register** notice relate to chemical identity.

Since the publication of the Inventory and the July 29, 1980 **Federal Register** notice, the Agency has received numerous requests to correct certain previously submitted Inventory reports. The Agency reviewed these correction requests and the corresponding reports originally submitted for the Inventory, and concluded that a number of the chemical substances currently listed on the Inventory were erroneously reported. Furthermore, in reviewing the total body of the Inventory submissions, the Agency discovered that each of the incorrectly listed substances was reported only by a submitter who subsequently requested that EPA correct the chemical identity originally reported, or who subsequently notified the Agency that the substance in question was solely manufactured for a non-TSCA use.

There are various reasons why chemical substances were incorrectly reported for the Inventory. First, the mistakes could have been typographical or transcriptional and were not known to the submitter when the original report was submitted. Second, improved analytical equipment and methods may have allowed for a more accurate description of a previously reported substance. Third, EPA may have identified reporting errors and requested corrections. Regardless of the source of error, the result is the same: a chemical substance not eligible for inclusion on the Inventory was reported and currently is included on the Inventory. If these mistakes are not corrected, the integrity of the Inventory will be impaired, and its reliability as an accurate compilation of commercial substances for TSCA purposes will diminish. In addition, substances which should be subject to premanufacture notification (PMN) review before they are manufactured or imported would not be reviewed.

In this notice, the Agency proposes to remove 38 chemical substances. The Agency has found that these chemical substances were incorrectly reported and listed. The substances proposed for removal from the TSCA Inventory are listed by Chemical Abstracts Service (CAS) Registry Number. Each of the 38 chemical substances is further identified by its corresponding Chemical Abstracts Preferred Name.

Each of the 38 chemical substances proposed for removal was reported for the Inventory. Subsequently, persons who had reported the chemical substances in question informed EPA of

errors in their submissions. In the majority of the cases the errors were due to mistaken chemical identities. The corrected identities for these chemical substances have been added to the Agency's Master Inventory File. EPA has checked each of these 38 chemical substances, as originally reported, to determine whether any other person had also reported the same chemical substance for the Inventory. No others were found and no additional information was available for the chemical substances.

In accordance with EPA policy (OPPT Order 7730.7), an erroneously or incorrectly reported chemical substance should be removed from the Inventory. Accordingly, these 38 chemical substances appear to be eligible for deletion from the Inventory.

Publication of this notice does not mean that EPA will actually and automatically delete from the Inventory any of the 38 chemical substances listed below. Rather, the Agency solicits public comments on its intent to remove from the TSCA Inventory the listed substances. EPA is specifically interested in knowing whether any of the chemical substances listed below have been manufactured, imported, or processed for TSCA commercial purposes other than research and development, as defined in the Inventory Reporting Regulations (40 CFR 710.2(p)), by anyone during the period January 1, 1975 through [insert date of publication in the **Federal Register**]. The Agency is also interested to know whether any person can show that any of the chemical substances could have been properly reported for the Inventory. EPA also solicits comments from anyone who believes that any of the chemical substances listed below should not be removed from the TSCA Inventory for any reason. With the publication of this notice, any ongoing manufacture, import, or processing of any of the 38 chemical substances listed below which was begun prior to the publication date of this notice may continue until publication of the final notice of disposition. All such comments must be received by EPA within the 45–day comment period.

EPA will review all comments received and will make a determination regarding the eventual status of each of the chemical substances listed below. The Agency will announce its decision in a final notice of disposition in the **Federal Register**. EPA will not consider any request to retain any of the listed chemical substances on the Inventory based solely on manufacture, import, or processing of that substance which begins after October 24, 1994. If the Agency determines that any of the listed chemical substances should not be removed from the Inventory, manufacturers and importers of these chemical substances would be invited to submit Inventory Reports to establish the need to retain the chemical substances on the Inventory. The substance would then remain on the Inventory. On the other hand, if the Agency concludes that a chemical substance is not eligible for inclusion on the Inventory, effective with the publication of the final notice of disposition, the chemical substance will be considered removed from the Inventory--the presence of its name in any previously published version of the Inventory notwithstanding. In that event, the premanufacture requirements of section 5(a) of TSCA would apply to any manufacture or import of the chemical substance from the date of removal.

The following is a list of incorrectly reported chemical substances proposed for removal from the TSCA Inventory. In response to industry requests, EPA is also providing the CAS Registry Numbers (CASRN's) for the chemical substances which replace the 38 chemicals proposed for delisting from the Inventory, where appropriate.

Chemical Substances Proposed for Removal From the TSCA Inventory

Note: The first column, as stated above, is a listing of the CASRN's for the chemical substances which replace the 38 incorrectly reported substances. The substances corresponding to these CASRN's have already been added to the TSCA Inventory. The second column contains CASRN's (in ascending order) of the 38 incorrectly reported chemicals as they were originally reported for the Inventory. The third column lists, by chemical name, each of the 38 incorrectly reported substances. The second and third columns represent substances that are proposed to be delisted from the TSCA Inventory.

CASRN's of Replacement Chemicals	CASRN's of Incorrectly Reported Substances	Incorrectly Reported Substances Proposed for Delisting from the Inventory
157089-27-5	5153-63-9	Acetic acid, compd. with pyridine (1:1)
147094-54-0	6178-32-1	Oxirane, [(4-nonylphenoxy)methyl]-
149497-03-0	6359-62-2	1H-Pyrazole-3-carboxylic acid, 4-[(2,4-dimethyl-6-sulfophenyl)azo]-4,5-dihydro-5-oxo-1-(4-sulfophenyl)-, trisodium salt
77342-27-9	26184-07-6	2-Propenoic acid, 2-methyl-, polymer with butyl 2-methyl-2-propenoate, butyl 2-propenoate and methyl 2-methyl-2-propenoate
33628-05-6	30377-70-9	1H-Benzimidazolium, 5-chloro-2-[3-[5-chloro-3-ethyl-1,3-dihydro-1-(3-sulfopropyl)-6-(trifluoromethyl)-2H-benzimidazol-2-ylidene]-1-propenyl]-3-ethyl-1-(3-sulfopropyl)-6-(trifluoromethyl)-, inner salt
23843-86-9/ 23843-87-0	40795-41-3	1,2-Benzenedicarboxylic acid, 4-[(4-aminophenyl)hydroxymethyl]-,monomethyl ester
52277-29-9/ 146988-01-4	56619-23-9	Benzenesulfonic acid, hydroxy-, monosodium salt, polymer with formaldehyde and urea
64296-27-1	65072-14-2	Hexanedioic acid, dimethyl ester, polymer with 1,2-ethanediol and 1,3-isobenzofurandione, benzoate
59633-97-5	65733-77-9	Formaldehyde, polymer with 1,3-benzenediol, 4-(1,1-dimethylethyl)phenol and 4,4'-(1-methylethylidene)bis[phenol]
69828-87-1	67827-62-7	1,2-Propanediol, 3,3'-[[4-[(2-chloro-4,6-dinitrophenyl)azo]-1-naphthalenyl]imino]bis-
144014-10-8	67923-97-1	2-Propenoic acid, 2-methyl-, methyl ester, polymer with ammonium 2-methyl-2-propenoate and ethyl 2-propenoate
150226-37-2	67989-80-4	1,3-Benzenedicarboxylic acid, polymer with 2-(dimethylamino)ethanol, 2,2-dimethyl-1,3-propanediol, 2,2-dimethylpropanoic acid and nonanedioic acid
147977-79-5	68002-78-8	Fatty acids, C16-18 and C18-unsatd., triesters with trimethylolpropane
147923-43-1	68479-21-0	Poly(oxy-1,2-ethanediyl), α-hydro-ω-hydroxy-, ether with N-[2-[bis(2-hydroxyethyl)methylammonio]ethyl]-N,N'-bis(2-hydroxyethyl)-N'-[2-hydroxy-3-(9-octadecenyloxy)propyl]-N,N'-dimethyl-1,2-ethanediaminium tris(methyl sulfate) (4:1), (Z)-
147977-80-8	68551-46-2	Carboxylic acids, C6-18 and C9-15-di-, polymers with adipic acid, ethylene glycol, glutaric acid and succinic acid, 2-ethylhexyl esters
146019-53-6	68607-79-4	Silica gel, reaction products with chlorodimethyloctylsilane

CASRN's of Replacement Chemicals	CASRN's of Incorrectly Reported Substances	Incorrectly Reported Substances Proposed for Delisting from the Inventory
144020-22-4	68610-78-6	Acetic acid, anhydride, reaction products with boron trifluoride and 1,5,9-trimethyl-1,5,9-cyclododecatriene
143622-82-6	68814-84-6	Fatty acids, tall-oil, polymers with isophthalic acid and 1,3,5-tris(2-hydroxyethyl)-1,3,5-triazine-2,4,6(1H,3H,5H)-trione
147128-26-5	68958-73-6	Hexanedioic acid, polymer with 1,6-diisocyanato-2,2,4-trimethylhexane, oxybis[propanol] and α,α',α''-1,2,3-propanetriyltris[ω-hydroxypoly[oxy(methyl-1,2-ethanediyl)]]
148373-02-8/ 148373-03-9	70528-75-5	Cashew, nutshell liq., polymer with formaldehyde, linseed oil and phenol
147923-40-8	71243-48-6	Amines, C14-18 and C16-18-unsatd. alkyl, ethoxylated, compds. with polyethylene glycol mono(nonylphenyl) ether phosphate
145951-43-5	71735-58-5	Chromate(2-), [1-[(5-chloro-2-hydroxyphenyl)azo]-2-naphthalenolato(2-)][3-hydroxy-4-[(2-hydroxy-3,5-dinitrophenyl)azo]-7-[(4-methoxyphenyl)amino]-2-naphthalenesulfonato(3-)]-, disodium
141048-13-7	71735-65-4	Cuprate(4-), [8-hydroxy-7-[[2-hydroxy-7-sulfo-6-[[4-[(2,5,6-trichloro-4-pyrimidinyl)amino]phenyl]azo]-1-naphthalenyl]azo]-1,3,6-naphthalenetrisulfonato(6-)]-, tetrasodium
144320-63-8	72245-32-0	Propanoic acid, 2-hydroxy-, compds. with 2-(dimethylamino)ethanol-hexyl [(2-isocyanato-1,4,4-trimethylcyclopentyl)methyl]carbamate adduct
147923-42-0	72479-99-3	Decanoic acid, mixed pentaesters with octadecanoic acid and triglycerol
148684-76-8	73138-55-3	Fatty acids, tall-oil, polymers with glycerol, phthalic anhydride, safflower oil and trimethylolpropane
148684-75-7	73138-84-8	Safflower oil, polymer with benzoic acid, glycerol, phthalic anhydride and trimethylolpropane
ACCN 98216	79771-00-9	Safflower oil, polymer with benzoic acid, bisphenol A, epichlorohydrin and styrene
ACCN 91566	79771-01-0	Safflower oil, polymer with benzoic acid, bisphenol A and epichlorohydrin
68911-06-8	93905-47-6	1,4-Benzenedicarboxylic acid, dimethyl ester, polymer with 1,2-ethanediol, distn. residues
NA	102923-79-5	Fatty acids, C18-unsatd., dimers, polymers with dicyclopentadiene, diethylene glycol, isophthalic acid, maleic anhydride and propylene glycol
147952-38-3	104133-74-6	Siloxanes and Silicones, di-Me, polymers with 3-hydroxy-2,2-dimethylpropyl 3-hydroxy-2,2-dimethylpropanoate, isophthalic acid, maleic anhydride, Ph silsesquioxanes and trimethylolpropane
145556-05-4	105883-53-2	1,2,3-Propanetriol, polymer with 1,3-diisocyanatomethylbenzene, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, methyloxirane and oxirane, hydrolyzed, amine-terminated
148878-27-7	115271-31-3	Propanoic acid, 3-hydroxy-2-(hydroxymethyl)-2-methyl-, polymer with N-(2-aminoethyl)-1,2-ethanediamine, 2,2-dimethyl-1,3-propanediol, diphenyl carbonate, 1,2-ethanediamine, 1,6-hexanediol, 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and 1,1'-methylenebis[4-isocyanatocyclohexane], polyethylene-polypropylene glycol mono-Bu ether-blocked, compds. with triethylamine
ACCN 120617/ 128666/ 128462	116265-70-4	9-Octadecenoic acid (Z)-, reaction products with formaldehyde, phenol polybutenyl derivs., tetraethylenepentamine and triethylenetetramine
100402-78-6	125804-20-8	2-Propenoic acid, 2-methyl-, 3-(trimethoxysilyl)propyl ester, reaction products with iso-Pr alc., 2-methyl-2-propanol and silica
NA	135313-74-5	2-Propenoic acid, ethyl ester, homopolymer, C>14-alkyl docosyl stearyl esters
137698-14-7	135429-20-8	Dodecanedioic acid, polymer with carbonic dichloride, 4,4'-(1-methylethylidene)bis[phenol] and 4-(1-methyl-1-phenylethyl)phenol

Accordingly, EPA proposes the delisting of the 38 chemical substances listed above from the TSCA Inventory.

Dated: October 17, 1994.

Mary Ellen Weber,

Director, Economics, Exposure and Technology Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–26283 Filed 10–21–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

October 18, 1994.

The Federal Communications Commission has submitted the following information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3507. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 10102, NEOB, Washington, D.C. 20503, (202) 385–3561. For further information, contact Judy Boley, Federal Communications Commission, (202) 418–2014.

Please note: The Commission has requested expedited review of this collection by October 25, 1994, under the provisions of 5 CFR 1320.18.

Title: Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Fifth Report and Order, PP Docket No. 93–253.

OMB Control Number: None.

Action: New Collections.

Respondents: Individuals, State or local governments, Non-profit institutions, Business or other for-profit, including small businesses.

Frequency of Response: On occasion.

Estimated Annual Burden: No. of Estimated Average Estimated Annual.

Section/forms	Respondents	Hours per response	Burden
Section 24.103	3356	2	6712
Section 24.204	11100	.50	5550
Section 24.709	3000	.50	1500
Section 24.709(c)(2)	1000	2	2000
Section 24.714	200	.50	100

Section/forms	Respondents	Hours per response	Burden
Section 24.714(b)	100	.50	50
Section 24.719	200	3	600
Section 24.806	12000	2	24000
Section 24.813	12000	1	12000
Section 24.813(f)	200	2.5	250
Section 24.815(j)[1]	1000	1	1000
Section 24.819	50	20	1000
Section 24.825	10	3	30
Section 24.828–24.829	40	2	80
Section 24.830	100	20	2000
Section 24.839	100	.50	50

[1] Recordkeeping requirement.
Total Annual Burden: 56,922 Hours.

Needs and Uses: In the Fifth Report and Order in PP Docket No. 93–253, the Commission has amended 47 CFR Part 24 to add new Subparts H and I. Subpart H contains the general rules and requirements governing the competitive bidding process for broadband PCS initial licenses. Subpart I contains the general rules and requirements for processing applications. Applicants are required to file certain information so that the Commission can determine whether the applicants are legally, technically and financially qualified to be licensed and to determine whether applicants claiming designated entity status are entitled to certain benefits. Affected public are any member of the public who wants to become or remain a licensee.

The foregoing estimates include 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 the burden estimates or any other aspect of the collection of information, including suggestions for reducing the burden, to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project, Washington, D.C. 20554 and to the Office of Management and Budget Paperwork Reduction Project, Washington, D.C. 20503.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Section 24.204 is amended by replacing references to "Section 24.305" and "Section 24.307" in paragraphs (f)(1) and (f)(2), respectively, with "§ 24.705" and "§ 24.707".

Subpart H—Competitive Bidding Procedures for Broadband PCS

Sec.

24.701 Broadband PCS subject to competitive bidding
24.702 Competitive bidding design for Broadband PCS licensing
24.703 Competitive bidding mechanisms
24.704 Withdrawal, default and disqualification penalties
24.705 Bidding application (FCC Form 175 and 175–S Short-Form)
24.706 Submission of upfront payments and down payments
24.707 Long-form applications
24.708 License grant, denial, default, and disqualification
24.709 Eligibility for licenses for frequency Blocks C and F
24.710 Limitation on licenses won at auction for frequency Blocks C and F
24.711 Installment payments for licenses for frequency Blocks C and F
24.712 Bidding credits for licenses for frequency Blocks C and F
24.713 Tax certificates
24.714 Eligibility for partitioned licenses
24.720 Definitions

Subpart H—Competitive Bidding Procedures for Broadband PCS

Section 24.701 Broadband PCS Subject to Competitive Bidding

Mutually exclusive initial applications to provide broadband PCS service are subject to competitive bidding procedures. The general competitive bidding procedures found in 47 CFR Part 1, Subpart Q will apply unless otherwise provided in this part.

Section 24.702 Competitive Bidding Design for Broadband PCS Licensing

(a) The Commission will employ the following competitive bidding designs when choosing from among mutually exclusive initial applications to provide broadband PCS service:

(1) Simultaneous multiple round auctions
(2) Sequential auctions

(b) The Commission may design and test alternative procedures. The Commission will announce by Public Notice before each auction the competitive bidding design to be employed in a particular auction.

(c) The Commission may use combinatorial bidding, which would allow bidders to submit all or nothing bids on combinations of licenses, in addition to bids on individual licenses. The Commission may require that to be declared the high bid, a combinatorial bid must exceed the sum of the individual bids by a specified amount or percentage. Combinatorial bidding may be used with any type of auction design.

(d) The Commission may use single combined auctions, which combine bidding for two or more substitutable licenses and award licenses to the highest bidders until the available licenses are exhausted. This technique may be used in conjunction with any type of auction.

Section 24.703 Competitive Bidding Mechanisms

(a) *Sequencing.* The Commission will establish and may vary the sequence in which broadband PCS licenses will be auctioned.

(b) *Grouping.* In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Commission will determined which licenses will be auctioned simultaneous or in combination.

(c) *Reservation Price.* The Commission may establish a reservation price, either disclosed or undisclosed, below which a license subject to auction will not be awarded.

(d) *Minimum Bid Increments.* The Commission will, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms.

(e) *Stopping Rules.* The Commission will establish stopping rules before or during multiple round auctions in order to terminate an auction within a reasonable time.

(f) *Activity Rules.* The Commission will establish activity rules which require a minimum amount of bidding activity. In the event that the Commission establishes an activity rule in connection with a simultaneous multiple round auction, each bidder will be entitled to request and will be automatically granted one waiver of such rule during each auction stage.

(g) *Suggested Minimum Bid.* The Commission may establish suggested minimum bids on each license. Bids below the suggested minimum bid would count as activity under the activity rule only if no bids at or above the suggested minimum bid are received.

Section 24.704 Withdrawal, Default and Disqualification Penalties

(a) When the Commission conducts a simultaneous multiple round auction pursuant to § 24.702(a)(1), the Commission will impose penalties on bidders who withdraw high bids during the course of an auction, who default on payments due after an auction closes, or who are disqualified.

(1) *Bid withdrawal prior to close of auction.* A bidder who withdraws a high bid during the course of an auction will be subject to a penalty equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. No withdrawal penalty would be assessed if the subsequent winning bid exceeds the withdrawn bid. This penalty amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(2) *Default or disqualification after close of auction.* If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the penalty in paragraph (a)(1) of this section plus an additional penalty equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent penalty will be calculated based on the defaulting bidder's bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or disqualified bidder has deposited with the Commission.

(b) When the Commission conducts sequential oral auctions pursuant to § 24.702(a)(2), the Commission may modify the penalties set forth in subsection (a) above to be paid in the event of bid withdrawal, default or disqualification; provided, however, that such penalties shall not exceed the penalties specified above.

(1) If a bid is withdrawn before the Commission has declared the bidding to be closed for the license bid on, no bid withdrawal penalty will be assessed.

(2) If a bid is withdrawn after the Commission has declared the bidding to be closed for the license bid on, the penalty specified in paragraph (a)(2) of this section will apply.

Section 24.705 Bidding Application (FCC Form 175 and 175–S Short-Form)

All applicants to participate in competitive bidding for broadband PCS licenses must submit applications on FCC Forms 175 and 175–S pursuant to the provisions of §§ 1.2105 of the Chapter and 24.813. The Commission will issue a Public Notice announcing the availability of broadband PCS licenses and, in the event that mutually exclusive applications are filed, the date of the auction for those licenses. This Public Notice also will specify the date on or before which applicants intending to participate in a boardband PCS auction must file their applications in order to be eligible for that auction, and it will contain information necessary for completion of the application as well as other important information such as the materials which must accompany the Forms, any filing fee that must accompany the application or any upfront payment that will need to be submitted, and the location where the application must be filed.

Section 24.706 Submission of Upfront Payments and Down Payments

(a) Where the Commission uses simultaneous multiple round auctions or oral sequential auctions, bidders will be required to submit an upfront payment in accordance with § 1.2106 of this Chapter and § 24.711(a)(1).

(b) Winning bidders in an auction must submit a down payment to the Commission in accordance with § 1.2107(b) of this Chapter and § 24.711(a)(2).

Section 24.707 Long-Form Applications

Each winning bidder will be required to submit a long-form application on FCC Form 401, as modified, within ten (10) business days after being notified that it is the winning bidder. Applications on FCC Form 401 shall be submitted pursuant to the procedures set forth in Subpart I of this Part and § 1.2107(c) and (d) of this Chapter and any associated Public Notice. Only auction winners (and applicants seeking partitioned licenses pursuant to agreements with auction winners under § 24.714) will be eligible to file applications on FCC Form 401 for initial broadband PCS licenses in the event of mutual exclusivity between applicants filing Form 175. Winning bidders need not complete Schedule B to Form 401.

Section 24.708 License Grant, Denial, Default, and Disqualification

(a) Except with respect to entities eligible for installment payments (*see* § 24.711), each winning bidder will be required to pay the balance of its winning bid in a lump sum payment within five (5) business days following the award of the license. Grant of the license will be conditioned upon full and timely payment of the winning bid amount.

(b) A bidder who withdraws its bid subsequent to the close of bidding, defaults on a payment due or is disqualified will be subject to the penalties specified in § 1.2109 of this Chapter.

Section 24.709 Eligibility for Licenses for Frequency Blocks C and F

(a) *General Rule.*

(1) No application is acceptable for filing and no license shall be granted for frequency Block C or frequency Block F, unless the applicant, together with its affiliates and persons holding interests in the applicant and their affiliates, have gross revenues of less than $125 million in each of the last two calendar years and total assets of less than $500 million at the time the applicant's short-form (Form 175) application is filed.

(2) No application is acceptable for filing and no license shall be granted for frequency Block C or frequency Block F, if, at the time the application is filed, the applicant (or person holding an interest in the applicant) is an individual and he or she (or affiliates) has $100 million or greater in personal net worth at the time the applicant's short-form (Form 175) application is filed.

(3) Any licensee awarded a licensee pursuant to this section (or pursuant to § 24.839(d)(2)) shall maintain its eligibility until at least five years from the date of initial license grant, except that increased gross revenues, increased total assets or personal net worth due to non-attributable equity investments (*i.e.* from sources whose revenues, total assets and personal net worth are not considered under paragraph (b)(4) of this section), debt financing, revenue from operations, business development or expanded service shall not be considered.

(b) *Attribution and Aggregation of Gross Revenues, Total Assets, and Personal Net Worth.*

(1) Except as specified in paragraphs (b)(3) and (4) of this section, the gross revenues and total assets of the applicant (or licensee) and its affiliates, and other persons that hold interests in the applicant (or licensee) and their affiliates shall be considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for a license for frequency Block C or frequency Block F under this section.

(2) The personal net worth of individual applicants (or licensees) and other persons that hold interests in the applicant (or licensee), and their affiliates, if under the amount in paragraph (a)(2) of this section, shall not be considered for purposes of determining whether the applicant (or licensee) is eligible for a license for frequency Block C or frequency Block F under this section.

(3) Where an applicant (or licensee) is a consortium of small businesses, the gross revenues and total assets of each small business shall not be aggregated.

(4)(i) The gross revenues, total assets and personal net worth of a person that holds an interest in the applicant (or licensee) shall not be considered for purposes of determining financial eligibility so long as:

(A) Such person holds no more than 25 percent of the applicant's (or licensee's) passive equity and is not a member of the applicant's (or licensee's) control group; and

(B) The applicant (or licensee) has a control group that owns at least 25 percent of the applicant's (or licensee's) total equity and, if a corporation, holds at least 50.1 percent of the applicant's (or licensee's) voting interests.

(ii) The gross revenues, total assets and personal net worth of a person that holds an interest in the applicant (or licensee) shall not be considered for purposes of determining financial eligibility so long as:

(A) Such person holds no more than 49.9 percent of the applicant's (or licensee's) passive equity and is not a member of the applicant's (or licensee's) control group; and

(B) The applicant (or licensee) has a control group that consists entirely of members of minority groups and/or women and that owns at least 50.1 percent of the applicant's (or licensee's) total equity and, if a corporation, at least 50.1 percent of the applicant's (or licensee's) voting interests.

(iii) The gross revenues, total assets and personal net worth of a person that holds an interest in the applicant (or licensee) shall not be considered for purposes of determining financial eligibility so long as:

(A) Such person owns no more than 25 percent of the applicant's (or licensee's) total equity, which shall include not more than 15 percent of the voting stock;

(B) The applicant (or licensee) is a publicly traded corporation; and

(C) The applicant (or licensee) has an eligible control group that holds at least 50.1 percent of the voting stock, if a corporation, and at least 25 percent of the applicant's (or licensee's) equity.

Note: Ownership interests shall be calculated on a fully diluted basis; all agreements such as warrants, stock options and convertible debentures will generally be treated as if the rights thereunder already have been fully exercised, except that the such agreements may not be used to appear to terminate or divest ownership interests before they actually do so.

(c) *Short-Form Application Certification; Long-Form Application Disclosure.*

(1) All applicants for a license for frequency Block C or frequency Block F shall certify on its short-form application (Form 175) that they are eligible to bid on and obtain licenses in those blocks pursuant to this section.

(2) In addition to the requirements in subpart I, all applicants that are winning bidders on frequency Blocks C and F shall, in an exhibit to their long-form applications—

(i) Identify each member of the applicant's control group, regardless of the size of the member's total interest in the applicant, and each member's minority group or gender classification, if applicable;

(ii) Disclose the gross revenues and total assets of the applicant and its affiliates, and other persons that hold interests in the applicant and their affiliates (including all members of the applicant's control group), unless exempted under paragraph (b)(4) of this section; and

(iii) Certify that the personal net worth of the applicant (if an individual), each affiliate and each person that holds an interest in the applicant is less than $100 million.

(d) *Audits.* Applicants and licensees claiming eligibility under this section shall be subject to random audits by the Commission.

(3) *Definitions.* The terms affiliate, business owned by members of minority groups and women, consortium of small businesses, control group, gross revenues, members of minority groups, passive equity, personal net worth, publicly traded corporation, and total assets used in this section are defined in § 24.720.

Section 24.710 Limitation on Licenses Won at Auction for Frequency Blocks C and F

(a) No applicant may be deemed the winning bidder of more than 98 of the licenses available for frequency Blocks C and F. Any applicant who is the high bidder for more than 98 of the licenses available for frequency Blocks C and F shall be required to withdraw its bid(s) for a sufficient number of licenses to achieve compliance with this section and may be subject to bid withdrawal penalties under § 24.704.

(b) For purposes of paragraph (a) of this section, licenses will be deemed to be won by the same bidder if an entity that controls or has the power to control any applicant that wins licenses at the auction, has the power to control any other applicant that wins licenses at the auction.

Section 24.711 Installment Payments for Licenses for Frequency Blocks C and F

(a) Except as provided in paragraphs (b), (c) and (d) of this section, an applicant that has $75 million or less in gross revenues in each of the preceding two calendar years and that is a winning bidder for frequency Blocks C or F in a BTA market other than the fifty largest markets and any eligible applicant that is a winning bidder for frequency Blocks C or F in one of the fifty largest BTA markets, may pay the full amount of its winning bid in installments as follows:

(1) Each eligible bidder shall pay an upfront payment of $0.015 per MHz per pop for the maximum number of licenses (in terms of MHz-pops) on which it intends to bid.

(2) Each winning bidder shall make a down payment equal to ten percent of their winning bids; a winning bidder shall bring its total amount on deposit with the Commission (including upfront payment) to five percent of its winning bids within five business days after the auction closes and the remainder of the down payment (five percent) shall be paid within five business days after the application required by § 24.809(b) is granted.

(3) Each eligible licensee shall pay the remainder of its winning bids in installment payments with interest imposed based on the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted, plus 2.5 percent; interest-only payments for the first year; and principal and interest payments amortized over the remaining nine years of the license.

(4) For purposes of determining whether an applicant has $75 million or less in gross revenues, gross revenues shall be attributed to the applicant and aggregated as provided in § 24.709(b), except that § 24.709(b)(4)(iii) shall not apply.

(b) An applicant that qualifies as a business owned by members of minority groups and/or women may pay the full amount of its winning bid in installments in the same manner as in paragraphs (a)(1) and (a)(2) of this section, except that interest-only payments may be paid for the first three years and interest shall be paid at the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted.

(c) An applicant that qualifies as a small business or as a consortium of small businesses may pay the full amount of its winning bid in installments in the same manner as in paragraphs (a)(1) and (a)(2) of this section, except that interest-only payments may be paid for the first two years.

(d) An applicant that qualifies as a small business owned by members of minority groups and/or women or as a consortium of small businesses owned by members of minority groups and/or women may pay the full amount of its winning bid in installments in the same manner as in paragraphs (a)(1) and (a)(2) of this section, except that interest-only payments may be paid for the first five years and interest shall be paid at the rate for ten-year U.S. Treasury obligations applicable on the date the license is granted.

(e) *Unjust Enrichment.*

(1) If a licensee that utilizes installment financing under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for installment payments, the licensee must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of approval.

(2) If a licensee that utilizes installment financing under this section seeks to make any change in ownership structure that would result in the licensee losing eligibility for installment payments, the licensee shall first seek Commission approval and must make full payment of the remaining unpaid principal and any unpaid interest accrued through the date of assignment or transfer as a condition of approval. Increases in gross revenues or total assets that result from equity investments that are not attributable to the licensee under § 24.709(b)(4), revenues from operations, business development or expanded service shall not be considered changes in ownership structure under this paragraph.

(3) If a licensee seeks to make any change in ownership that would result in the licensee qualifying for a less favorable installment plan under paragraph (a), (b) or (c) of this section, the licensee shall seek Commission approval and must adjust its payment plan to reflect its new eligibility status under paragraph (a), (b) or (c) of this section. A licensee may not switch its payment plan to a more favorable plan.

Section 24.712 Bidding Credits for Licenses for Frequency Blocks C and F

(a) A winning bidder that qualifies as a small business or a consortium of small businesses may use a bidding credit of ten percent to lower the cost of its winning bid.

(b) A winning bidder that qualifies as a business owned by members of minority groups and/or women may use a bidding credit of fifteen percent to lower the cost of its winning bid.

(c) A winning bidder that qualifies as a small business owned by members of minority groups and/or women or a consortium of small business owned by members of minority groups and/or women may use a bidding credit of twenty-five percent to lower the cost of its winning bid.

(d) *Unjust Enrichment.*

(1) If a licensee that utilizes a bidding credit under this section seeks to assign or transfer control of its license to an entity not meeting the eligibility standards for bidding credits or seeks to make any other change in ownership that would result in the licensee no longer qualifying for bidding credits under this section, the licensee must seek Commission approval and reimburse the government for the amount of the bidding credit as a condition of the approval of such assignment, transfer or other ownership change.

(2) If a licensee that utilizes a bidding credit under this section seeks to assign or transfer control of its license to an entity meeting the eligibility standards for lower bidding credits or seeks to make any other change in ownership that would result in the licensee qualifying for a lower bidding credit under this section, the licensee must seek Commission approval and reimburse the government for the difference between the amount of the bidding credit obtained by the licensee and the bidding credit for which the assignee, transferee or licensee is eligible under this section as a condition of the

approval of such assignment, transfer or other ownership change.

Section 24.713 Tax Certificates

(a) Any non-controlling initial investor in a business owned by members of minority groups and/or women and who provides "start-up" financing, which allows such business to acquire a broadband PCS license(s), and any non-controlling investor who purchases an interest in a broadband PCS license held by a business owned by members of minority groups and/or women within the first year after license issuance, may, upon the sale of such investment or interest, request from the Commission a tax certificate.

Note: For purposes of this subsection non-controlling investor means any person who is not part of the control group of a business owned by members of minority groups and/or women as defined in § 24.720(k).

(b) Any broadband PCS licensee who assigns or transfers control of its license to a business owned by members of minority groups and/or women may request that the Commission issue the licensee a tax certificate. Any licensee that obtains a broadband PCS license through the benefit of a tax certificate under this subsection shall not assign or transfer control of its license within one year of its license grant date, unless such assignee or transferee qualifies as a business owned by members of minority groups and/or women, which shall not assign or transfer control of the license within one year of the grant date of the assignment or transfer.

(c) Any licensee in the Domestic Public Cellular Radio Telecommunications Service who assigns or transfers control of its cellular license(s) to a business owned by members of minority groups and/or women may request that the Commission issue the licensee a tax certificate. Such tax certificates will only be issued if the principal purpose of the assignment or transfer of control is to allow the cellular licensee to become eligible for a broadband PCS license(s) beyond the limitations imposed on the cellular licensee by § 24.204. Any licensee that obtains a cellular license through the benefit of a tax certificate under this paragraph shall not assign or transfer control of its license within one year of its license grant date, unless such assignee or transferee qualifies as a business owned by members of minority groups and/or women, which shall not assign or transfer control of the license within one year of the grant date of the assignment or transfer.

Section 24.714 Eligibility for Partitioned Licenses

(a) Notwithstanding § 24.202, an applicant that is a rural telephone company, as defined in § 24.720(e), may be granted a broadband PCS license that is geographically partitioned from a separately licensed MTA or BTA, so long as the MTA or BTA applicant or licensee has voluntarily agreed (in writing) to partition a portion of the license to the rural telephone company.

(b) If partitioned licenses are being applied for in conjunction with a license(s) to be awarded through competitive bidding procedures—

(1) The applicable procedures for filing short-form applications and for submitting upfront payments and down payments contained in this Part and Part 1 of this Chapter shall be followed by the applicant, who must disclose as part of its short-form application all parties to agreement(s) with or among rural telephone companies to partition the license pursuant to this section, if won at auction (*see* 47 CFR § 1.2105(a)(2)(viii));

(2) Each rural telephone company that is a party to an agreement to partition the license shall file a long-form application for its respective, mutually agreed-upon geographic area together with the application for the remainder of the MTA or BTA filed by the auction winner.

(c) If the partitioned license is being applied for as a partial assignment of the MTA or BTA license following grant of the initial license, request for authorization for partial assignment of a license shall be made pursuant to § 24.839.

(d) Each application for a partitioned area (long-form initial application or partial assignment application) shall contain a partitioning plan that must propose to establish a partitioned area to be licensed that meets the following criteria:

(1) Conforms to established geopolitical boundaries (such as county lines);

(2) Includes the wireline service area of the rural telephone company applicant; and

(3) Is reasonably related to the rural telephone company's wireline service area.

Note: A partitioned service area will be presumed to be reasonably related to the rural telephone company's wireline service area if the partitioned service area contains no more than twice the population overlap between the rural telephone company's wireline service area and the partitioned area.

(e) Each licensee in each partitioned area will be responsible for meeting the construction requirements in its area (*see* § 24.203).

Section 24.720 Definitions

(a) *Scope.* The definitions in this section apply to §§ 24.709–24.715, unless otherwise specified in those sections.

(b) *Small Business; Consortium of Small Businesses.*

(1) A small business is an entity that—

(i) Together with its affiliates has average annual gross revenues that are not more than $40 million for the proceeding three calendar years;

(ii) Has no attributable investor or affiliate that has a personal net worth of $40 million or more;

(iii) Has a control group all of whose members and affiliates are considered in determining whether the entity meets the $40 million annual gross revenues and personal net worth standards; and

(iv) Such control group holds 50.1 percent of the entity's voting interest, if a corporation, and at least 25 percent of the entity's equity on a fully diluted basis, except that a business owned by members of minority groups and/or women (as defined in paragraph(c) of this section) may also qualify as a small business if a control group that is 100 percent composed of members of minority groups and/or women holds 50.1 percent of the entity's voting interests, if a corporation, and 50.1 percent of the entity's total equity on a fully diluted basis and no single other investor holds more than 49.9 percent of passive equity in the entity. Ownership interests shall be calculated on a fully diluted basis; all agreements such as warrants, stock options and convertible debentures will generally be treated as if the rights thereunder already have been fully exercised, except that the such agreements may not be used to appear to terminate or divest ownership interests before they actually do so.

(2) For purposes of determining whether an entity meets the $40 million gross revenues and $40 million personal net worth standards in paragraph (b)(1) of this section, gross revenues and personal net worth shall be attributed to the entity and aggregated as provided in § 24.709(b), except that § 24.709(b)(4)(iii) shall not apply.

(3) A small business consortium is a conglomerate organization formed as a joint venture between mutually-independent business firms, each of which individually satisfies the definition of a small business in paragraph (b)(1) of this section.

(c) *Business Owned by Members of Minority Groups and/or Women.* A business owned by members of minority groups and/or women is an entity:

(1) That has a control group composed 100 percent of members of minority groups and/or women who are United States Citizens, and

(2) Such control group owns and holds 50.1 percent of the voting interests, if a corporation, and

(i) Owns and holds 50.1 percent of the total equity in the entity, provided that all other investors hold passive interests; or

(ii) Holds 25 percent of the total equity in the entity, provided that no single other investor holds more than 25 percent passive equity interests in the entity. Ownership interests shall be calculated on a fully diluted basis; all agreements such as warrants, stock options and convertible debentures will generally be treated as if the rights thereunder already have been fully exercised, except that the such agreements may not be used to appear to terminate or divest ownership interests before they actually do so.

(d) *Small Business Owned by Members of Minority Groups and/or Women; Consortium of Small Businesses Owned by Members of Minority Groups and/or Women.* A small business owned by members of minority groups and/or women is an entity that meets the definitions in both paragraphs (b) and (c) of this section. A consortium of small businesses owned by members of minority groups and/or women is a conglomerate organization formed as a joint venture between mutually-independent business firms, each of which individually satisfies the definition of a small business in paragraphs (b)(1) and (c) of this section.

(e) *Rural Telephone Company.* A rural telephone company is a local exchange carrier having 100,000 or fewer access lines, including all affiliates.

(f) *Gross Revenues.* Gross revenues shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (*e.g.*, cost of goods sold), as evidenced by audited quarterly financial statements for the relevant period.

(g) *Total Assets.* Total assets shall mean the book value (except where generally accepted accounting principles (GAAP) require market valuation) of all property owned by an entity, whether real or personal, tangible or intangible, as evidenced by the most recent audited quarterly financial statements.

(h) *Personal Net Worth.* Personal net worth shall mean the market value of all assets (real and personal, tangible and intangible) owned by an individual, less all liabilities (including personal guarantees) owed by the individual in his individual capacity or as a joint obligor.

(i) *Members of Minority Groups.* Members of minority groups includes individuals of African American, Hispanic-surnamed, American Eskimo, Aleut, American Indian and Asian American extraction.

(j) *Passive Equity.* Passive equity shall mean:

(1) For corporations, non-voting stock or stock that includes no more than five percent of the voting equity;

(2) For partnerships, joint ventures and other non-corporate entities, limited partnership interests and similar interests that do not afford the power to exercise control of the entity.

(k) *Control Group.* A control group is an entity, or a group of individuals or entities that possesses *de jure* control and *de facto* control of an applicant or licensee, and as to which the applicant's or licensee's charters, bylaws, agreements and any other relevant documents (and amendments thereto) provide:

(1) That the entity and/or its members own unconditionally at least 50.1 percent of the total voting interests of a corporation;

(2) That the entity and/or its members receive at least 50.1 percent of the annual distribution of any dividends paid on the voting stock of a corporation;

(3) That, in the event of dissolution or liquidation of a corporation, the entity and/or its members are entitled to receive 100 percent of the value of each share of stock in its possession and a percentage of the retained earnings of the concern that is equivalent to the amount of equity held in the corporation; and

(4) That the entity and/or its members have the right to receive dividends, profits and regular and liquidating distributions from the business in proportion to its interest in the total equity of the applicant or licensee.

Note: Voting control does not always assure *de facto* control, such as, for example, when the voting stock of the control group is widely dispersed (*see, e.g.*, § 24.270(l)(2)(iii)).

(l) *Affiliate.* (1) An individual or entity is an affiliate of:

(i) An applicant; or

(ii) A person holding an attributable interest in an applicant under § 24.709 (both referred to herein as "the applicant") if such individual or entity—

(A) Directly or indirectly controls or has the power to control the applicant, or

(B) Is directly or indirectly controlled by the applicant, or

(C) Is directly or indirectly controlled by a third party or parties that also controls or has the power to control the applicant, or

(D) Has an "identity of interest" with the applicant.

(2) Nature of control in determining affiliation.

(i) Every business concern is considered to have one or more parties who directly or indirectly control or have the power to control it. Control may be affirmative or negative and it is immaterial whether it is exercised so long as the power to control exists.

Example. An applicant owning 50 percent of the voting stock of another concern would have negative power to control such concern since such party can block any action of the other stockholders. Also, the bylaws of a corporation may permit a stockholder with less than 50 percent of the voting stock to block any actions taken by the other stockholders in the other entity. Affiliation exists when the applicant has the power to control a concern while at the same time another person, or persons, are in control of the concern at the will of the party or parties with the power to control.

(ii) Control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.

(iii) Control can arise through management positions where a concern's voting stock is so widely distributed that no effective control can be established.

Example. In a corporation where the officers and directors own various size blocks of stock totaling 40 percent of the corporation's voting stock, but no officer or director has a block sufficent to give him or her control or the power to control and the remaining 60 percent is widely distributed with no individual stockholder having a stock interest greater than 10 percent, management has the power to control. If persons with such management control of the other entity are persons with attributable interests in the applicant, the other entity will be deemed an affiliate of the applicant.

(3) Identity of interest between and among persons. Affilation can arise between or among two or more persons with an identity of interests, such as members of the same family or persons with common investments. In determining if the applicant controls or has the power to control a concern, persons with an identity of interest will be treated as though they were one person.

Example. Two shareholders in Corporation Y each have attributable interests in the same PCS application. While neither shareholder has enough shares to individually control Coporation Y, together they have the power to control Corporation Y. The two shareholders with these common investments (or identity in interest) are treated as though they are one person and Coporation Y would be deemed an affiliate of the applicant.

(i) Spousal Affliation. Both spounses are deemed to own or control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States. In calculating their net worth, investors who are legally separated must include their share of interests in property held jointly with a spouse.

(ii) Kinship Affiliation. Immediate family members will be presumed to own or control or have the power to control interests owned or controlled by other immediate family members. In this context "immediate family member" means father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father or -mother, step-brother or -sister, step-son or -daughter, half brother or sister. This presumption may be rebutted by showing that

(A) The family members are estranged,

(B) The family ties are remote, or

(C) The family members are not closely involved with each other in business matters.

Example: A owns a controlling interest n Corporation X. A's sister-in-law, B, has an attributable interestin a PCS application. Because A and B have a presumptive kinship affiliation, A's interest in Corporation X is attributable to B, and thus to the applicant, unless B rebuts the presumption with the necessary showing

(4) Affiliation through stock ownership.

(i) An applicant is presumed to control or have the power to control a concern if he or she owns or controls or has the power to control 50 percent or more of its voting stock.

(ii) An applicant is presumed to control or have the power to control a concern even though he or she owns, controls or has the power to control less than 50 percent of the concern's voting stock, if the block of stock he or she owns, controls or has the power to control is large as compared with any other oustnding block of stock.

(iii) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, such minority holdings are equal or approximately equal in size, and the aggregate of these minority holdings is large as compared with any other stock holding, the presumption arises that each one of these persons individually controls or has the power to control the concern; however, such presumption may be rebutted by a showing that such control or power to control, in fact, does not exist.

(5) Affilation arising under stock options, convertible debentures, and agreement to merge. Stock, options, convertible debentures, and agreements to merge (including agreements in principle) are generally considered to have a present effect on the power to control the concern. Therefore, in making a size determination,

such options, debentures, and agreements are generally treated as though the rights held thereunder had been exercised. However, an affiliate cannot use such options and debentures to appear to terminate its control over another concern before it actually does so.

Example 1. If company B holds an option to purchase a controlling interest in company A, who holds an attributable interest in a PCS application, the situation is treated as though company B had exercised its rights and had become owner of a controlling interest in company A. The gross revenues of company B must be taken into account in determining the size of the applicant.

Example 2. If a large company, BigCo, holds 70% (70 of 100 outstanding shares) of the voting stock of company A, who holds an attributable interest in a PCS application, and gives a third party, SmallCo, an option to purchase 50 of the 70 shares owned by BigCo, BigCo will be deemed to be an affiliate of company A, and thus the applicant, until SmallCo actually exercises its option to purchase such shares. In order to prevent BigCo from circumventing the intent of the rule which requires such options to be considered on a fully diluted basis, the option is not considered to have present effect in this case.

Example 3. If company A has entered into an agreement to merge with company B in the future, the situation is treated as though the merger has taken place.

(6) Affiliation under voting trusts.

(i) Stock interests held in trust shall be deemed controlled by any person who holds or shares the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will.

(ii) If a trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the stock interests held in trust will be deemed controlled by the grantor or beneficiary, as appropriate.

(iii) If the primary purpose of a voting trust, or similar agreement, is to separate voting power from beneficial ownership of voting stock for the purpose of shifting control of or the power to control a concern in order that such concern or another concern may meet the Commission's size standards, such voting trust shall not be considered valid for this purpose regardless of whether it is or is not recognized within the appropriate jurisdiction.

(7) Affiliation through common management. Affiliation generally arises where officers, directors, or key employees serve as the majority or otherwise as the controlling element of the board of directors and/or the management of another entity.

(8) Affiliation through common facilities. Affiliation generally arises where one concern shares office space and/or employees and/or other facilities with another concern, particularly where such concerns are in the same or related industry or field of operations, or where such concerns were formerly affiliated, and through these sharing arrangements one concern has control, or potential control, of the other concern.

(9) Affiliation through contractual relationships. Affiliation generally arises where once concern is dependent upon another concern for contracts and business to such a degree that one concern has control, or potential control, of the other concern.

(10) Affiliation under joint venture arrangements.

(i) A joint venture for size determination purposes is an association of concerns and/or individuals, with interests in any degree or proportion, formed by contract, express or implied, to engage in and carry out a single, specific business venture for joint profit for which purpose they combine their efforts, property, money, skill and knowledge, but not on a continuing or permanent basis for conducting business generally. The determination whether an entity is a joint venture is based upon the facts of the business operation, regardless of how the business operation may be designated by the parties involved. An agreement to share profits/losses proportionate to each party's contribution to the business operation is a significant factor in determining whether the business operation is a joint venture.

(ii) The parties to a joint venture are considered to be affiliated with each other.

(m) *Publicly Traded Corporation.* A publicly traded corporation is a business entity organized under the laws of the United States whose shares, debt or other ownership interests are traded on an organized securities exchange within the United States.

Subpart I—Interim Application, Licensing, and Processing Rules for Broadband PCS

Sec.

24.801 [Reserved]
24.802 [Reserved]
24.803 Authorization required
24.804 Eligibility
24.805 Formal and informal applications
24.806 Filing of broadband PCS applications; Fees; Number of copies
24.807 [Reserved]
24.808 [Reserved]
24.809 Standard application forms and permissive changes or minor modifications for the broadband Personal Communications Services
24.810 [Reserved]
24.811 Miscellaneous forms
24.812 [Reserved]
24.813 General application requirements
24.814 [Reserved]
24.815 Technical content of applications; maintenance of list of station locations
24.816 Station antenna structures
24.817 [Reserved]
24.818 [Reserved]
24.819 Waiver of rules
24.820 Defective applications
24.821 Inconsisent or conflicting applications
24.822 Amendment of application to participate in auction for licenses in the broadband Personal Communications Services filed on FCC Form 175
24.823 Amendment of applications for licenses in the broadband Personal Communications Services (other than applications filed on FCC Form 175)
24.824 [Reserved]
24.825 Application for temporary authorizations
24.826 Receipt of application; applications in the broadband Personal Communications Services filed on FCC Form 175 and other applications in the broadband Personal Communications Services
24.827 Public notice period
24.828 Dismissal and return of applications
24.829 Ownership changes and agreements to amend or to dismiss applications or pleadings
24.830 Opposition to applications
24.831 Mutually exclusive applications
24.832 Consideration of applications
24.833 [Reserved]
24.834 [Reserved]
24.835 [Reserved]
24.836 [Reserved]
24.837 [Reserved]
24.838 [Reserved]
24.839 Transfer of control or assignment of license
24.840 [Reserved]
24.841 [Reserved]
24.842 [Reserved]
24.843 Extension of time to complete construction
24.844 Termination of authorization

Subpart I—Interim Application, Licensing, and Processing Rules for Broadband PCS

Section 24.801 [Reserved]

Section 24.802 [Reserved]

Section 24.803 Authorization Required

No person shall use or operate any device for the transmission of energy or communications by radio in the services authorized by this part except as provided in this part.

Section 24.804 Eligibility

(a) General. Authorizations will be granted upon proper application if:

(1) The applicant is qualified under all applicable laws and Commission regulations, policies and decisions;

(2) There are frequencies available to provide satisfactory service; and

(3) The public interest, convenience or necessity would be served by a grant.

(b) Alien ownership. A broadband PCS authorization to provide Commercial Mobile Radio Service may not be granted to or held by:

(1) Any alien or the representative of any alien.

(2) Any corporation organized under the laws of any foreign government.

(3) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or any corporation organized under the laws of a foreign country.

(4) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a

foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(c) A broadband PCS authorization to provide Private Mobile Radio Service may not be granted to or held by a foreign government or a representative thereof.

Section 24.805 Formal and Informal Applications

(a) Except for an authorization under any of the conditions stated in Section 308(a) of the Communications Act of 1934 (47 U.S.C. § 308(a)), the Commission may grant the following authorizations only upon written application received by it: station licenses; modifications of licenses; renewals of licenses; transfers and assignments of station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) "Formal applications" where the Commission has prescribed in this Part a standard form; or

(2) "Informal applications" (normally in letter form) where the Commission has not prescribed a standard form.

(c) An informal application will be accepted for filing only if:

(1) A standard form is not prescribed or clearly applicable to the authorization requested;

(2) It is a document submitted, in duplicate, with a caption which indicates clearly the nature of the request, radio service involved, location of the station, and the application file number (if known); and

(3) It contains all the technical details and informational showings required by the rules and states clearly and completely the facts involved and authorization desired.

Section 24.806 Filing of Broadband PCS Applications; Fees; Number of Copies

(a) As prescribed by §§ 24.705, 24.707 and 24.809, standard formal application forms applicable to broadband PCS may be obtained from either:

(1) Federal Communications Commission, Washington, DC 20554; or

(2) By calling the Commission's Forms Distribution Center, (202) 632–3676.

(b) Applications to participate in competitive bidding for broadband PCS service must be filed on FCC Form 175 in accordance with the rules in § 24.705 and Part 1, Subpart Q of this Chapter. In the event of mutual exclusivity between applicants filing FCC Form 175, only auction winners will be eligible to file subsequent long-form applications on FCC Form 401 to provide broadband PCS service. Mutually exclusive applications filed on FCC Form 175 are subject to competitive bidding under those rules. Broadband PCS applicants filing FCC Form 401 need not complete Schedule B.

(c) All applications for broadband PCS licenses (other than applications to participate in competitive bidding filed on FCC Form 175) shall be submitted for filing to: Federal Communications Commission, Washington, DC 20554, Attention: Broadband PCS Processing Section.

Applications requiring fees as set forth at Part 1, Subpart G of this chapter must be filed in accordance with § 0.401(b) of this Chapter.

(d) All correspondence or amendments concerning a submitted application shall clearly identify the name of the applicant, applicant identification number or Commission file number (if known) or station call sign of the application involved, and may be sent directly to the Common Carrier Bureau, Broadband PCS Processing Section.

(e) Except as otherwise specified, all applications, amendments, correspondence, pleadings and forms (including FCC Form 175) shall be submitted on one original paper copy and with three microfiche copies, including exhibits and attachments thereto, and shall be signed as prescribed by § 1.743 of this Chapter. Filings of five pages or less are exempt from the requirement to submit on microfiche, as are emergency filings such as letters requesting special temporary authority. Those filing any amendments, correspondence, pleadings and forms must simultaneously submit the original hard copy which must be stamped "original". Abbreviations may be used if they are easily understood. In addition to the original hard copy, those filing pleadings, including pleadings under § 1.2108 of this Chapter, shall also submit two paper copies as provided in § 1.51 of this Chapter.

(1) Microfiche copies. Each microfiche copy must be a copy of the signed original. Each microfiche copy shall be a 148mm X 105mm negative (clear transparent characters appearing on an opaque background) at 24X to 27X reduction for microfiche or microfiche jackets. One of the microfiche sets must be a silver halide camera master or a copy made on silver halide film such as Kodak Direct Duplicatory Film. The microfiche must be placed in paper microfiche envelopes and submitted in a B6 (125mm x 176mm) or 5 x 7.5 inch envelope. All applicants must leave Row "A" (the first row for page images) of the first fiche blank for in-house identification purposes. Each microfiche copy of pleadings shall include:

(i) The month and year of the document;

(ii) The name of the document;

(iii) The name of the filing party;

(iv) The file number, applicant identification number, and call sign, if assigned;

(v) The identification number and date of the Public Notice announcing the auction in response to which the application was filed (if applicable).

(2) All applications and all amendments must have the following information printed the mailing envelope, the microfiche envelope, and on the title area at the top of the microfiche:

(i) The name of the applicant;

(ii) The type of application (*e.g.*, 30 MHz MTA, 30 MHz BTA, 10 MHz BTA);

(iii) The month and year of the document;

(iv) The name of the document;

(v) The file number, applicant identification number, and call sign, if assigned; and

(vi) The identification number and date of the Public Notice announcing the auction in response to which the application was filed (if applicable).

Section 24.807 [Reserved]

Section 24.808 [Reserved]

Section 24.809 Standard Application Forms and Permissive Changes or Minor Modifications for the Broadband Personal Communications Services

(a) Applicants to participate in competitive bidding for broadband PCS licenses must be filed on FCC Forms 175 and 175–S.

(b) Subsequent application by auction winners or non-mutually exclusive applicants for broadband PCS licenses under Part 24. FCC Form 401 ("Application for New or Modified Common Carrier Radio Station Under Part 22") shall be submitted by each auction winner for each broadband PCS license applied for on FCC Form 175. In the event that mutual exclusivity does not exist with respect to a license identified on an applicant's FCC Form 175, the Commission will so inform the applicant and the applicant will also file FCC Form 401. Blanket licenses are granted for each market frequency block. Applications for individual sites are not needed and will not be accepted. *See* § 24.11. Broadband PCS applicants filing FCC Form 401 need not complete Schedule B.

(c) Extensions of time and reinstatement. When a licensee cannot complete construction in accordance with the provisions of § 24.203, a timely application for extension of time (FCC Form 489) must be filed.

(d) License for mobile subscriber station—These stations are considered to be associated with and covered by the authorization issued to the carrier serving the land mobile station. No additional authorization is required.

Section 24.810 [Reserved]

Section 24.811 Miscellaneous Forms

(a) *Licensee qualifications.* FCC Form 430 ("Common Carrier and Satellite Radio Licensee Qualifications Report") shall be filed by broadband Personal Communications Service licensees only as required by Form 490 (Application for Assignment or Transfer of Control Under Part 22).

(b) *Renewal of station license.* Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed in duplicate by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed.

Section 24.812 [Reserved]

Section 24.813 General Application Requirements

(a) Each application (including applications filed on Forms 175 and 401) for a broadband PCS license or for consent to assign or transfer control of a broadband PCS license shall disclose fully the real party or parties in interest and must include in an exhibit the following information:

(1) A list of any business five percent or more of whose stock, warrants, options or debt securities are owned by the applicant or an officer, director, stockholder or key management personnel of the applicant. This list must include a description of each such

business principal business and a description of each such business' relationship to the applicant.

(2) A list of any party which holds a five percent or more interest in the applicant, or any entity in which a five percent or more interest is held by another party which holds a five percent or more interest in the applicant (*e.g.*, If Company A owns 5% of Company B (the applicant) and 5% of Company C, then Companies A and C must be listed on Company B's application).

(3) A list of the names, addresses, citizenship and principal business of any person holding five percent or more of each class of stock, warrants, options or debt securities together with the amount and percent held, and the name, address, citizenship and principal place of business of any person on whose account, if other than the holder, such interest is held. If any of these persons are related by blood or marriage, include such relationship in the statement.

(4) In the case of partnerships, the name and address of each partner, each partner's citizenship and the share or interest participation in the partnership. This information must be provided for all partners, regardless of their respective ownership interests in the partnership. A signed and dated copy of the partnership agreement must be included in the application.

(b) Each application for a broadband PCS license must;

(1) Submit the information required by the Commission's Rules, requests and application forms;

(2) Be maintained by the applicant substantially accurate and complete in all significant respects in accordance with the provisions of § 1.65 of this chapter;

(3) Show compliance with and make all special showings that may be applicable;

(c) Where documents, exhibits, or other lengthy showings already on file with the Commission contain information which is required by an application form, the application may specifically refer to such information, if:

(1) The information previously filed is over one A4 (21 cm × 29.7 cm) or 8.5 × 11 inch (21.6 cm × 27.9 cm) page in length, and all information referenced therein is current and accurate in all significant respects under § 1.65 of this chapter; and

(2) The reference states specifically where the previously filed information can actually be found, including mention of:

(i) The station call sign or application file number whenever the reference is to station files or previously filed applications; and

(ii) The title of the proceeding, the docket number, and any legal citations, whenever the reference is to a docketed proceeding.

However, questions on an application form which call for specific technical data, or which can be answered by a "yes" or "no" or other short answer shall be answered as appropriate and shall not be cross-referenced to a previous filing.

(d) In addition to the general application requirements of Subpart F and §§ 1.2105 of this Chapter, 24.813 and 24.815, applicants shall submit any additional documents, exhibits, or signed written statements of fact:

(1) As may be required by these rules; and

(2) As the Commission, at any time after the filing of an application and during the term of any authorization, may require from any applicant, permittee or licensee to enable it to determine whether a radio authorization should be granted, denied or revoked.

(e) Except when the Commission has declared explicitly to the contrary, an informational requirement does not in itself imply the processing treatment of decisional weight to be accorded the response.

(f) All applicants (except applicants filing FCC Form 175) are required to indicate at the time their application is filed whether or not a Commission grant of the application may have a significant environmental impact as defined by § 1.1307 of this Chapter. If answered affirmatively, the requisite environmental assessment as prescribed in § 1.1311 of this Chapter must be filed with the application and Commission environmental review must be completed prior to construction. *See* § 1.1312 of this chapter. All broadband PCS licensees are subject to a continuing obligation to determine whether subsequent construction may have a significant environmental impact prior to undertaking such construction and to otherwise comply with § 1.1301 through 1.1319 of this Chapter. *See* § 1.1312 of this Chapter.

Section 24.814 [Reserved]

Section 24.815 Technical Content of Applications; Maintenance of List of Station Locations

(a) All applications required by this part shall contain all technical information required by the application forms or associated Public Notice(s). Applications other than initial applications for a broadband PCS license must also comply with all technical requirements of the rules governing the broadband PCS (*see* Subparts C and E of this Part as appropriate). The following paragraphs describe a number of general technical requirements.

(b) Each application (except applications for initial licenses filed on Form 175) for a license for broadband PCS must comply with the provisions of §§ 24.229–24.238 of the Commission's Rules.

(c)–(i) [Reserved]

(j) The location of the transmitting antenna shall be considered to be the station location. Broadband PCS licensees must maintain a current list of all station locations, which must describe the transmitting antenna site by its geographical coordinates and also by conventional reference to street number, landmark, or the equivalent. All such coordinates shall be specified in terms of degrees, minutes, and seconds to the nearest second of latitude and longitude.

Section 24.816 Station Antenna Structures

(a) Unless the broadband PCS licensee has received prior approval from the FCC, no antenna structure, including radiating elements, tower, supports and all appurtenances, may be higher than 61 m (200 feet) above ground level at its site.

(b) Unless the broadband PCS licensee has received prior approval from the FCC, no antenna structure that is located either at an airport or heliport that is available for public use and is listed in the *Airport Directory* of the current *Airman's Information Manual* or in either the *Alaska* or *Pacific Airman's Guide and Chart Supplement*, at an airport or heliport under construction that is the subject of a notice or proposal on file with the FAA and, except for military airports, it is clearly indicated that the airport will be available for public use, or at an airport or heliport that is operated by the armed forces of the United States, or at a place near any of these airports of heliports, may be higher than:

(1) 1 m above the airport elevation for each 100 m from the airport runway longer than 1 km within 6.1 km of the antenna structure.

(2) 2 m above the airport elevation for each 100 m from the nearest runway shorter than 1 km within 3.1 km of the antenna structure.

(3) 4 m above the airport elevation for each 100 m from the nearest landing pad within 1.5 km of the antenna structure.

(c) A broadband PCS station antenna structure no higher than 6.1 m (20 feet) above ground level at its site or no higher than 6.1 m above any natural object or existing manmade structure, other than an antenna structure, is exempt from the requirements of paragraphs (a) and (b) of this section.

(d) Further details as to whether an aeronautical study and/or obstruction marking and lighting may be required, and specifications for obstruction marking and lighting, are contained in Part 17 of the FCC Rules, *Construction, Marking and Lighting of Antenna Structures*. To request approval to place an antenna structure higher than the limits specified in paragraph (a), (b), and (c) of this section, the licensee must notify the Federal Aviation Administration (FAA) on FAA From 7460–1 and the FCC on FCC Form 854.

Sections 24.817–24.818 [Reserved]

Section 24.819 Waiver of Rules

(a) Requests for waiver.

(1) A waiver of these rules may be granted upon application or by the Commission on its own motion. Requests for waivers shall contain a statement of reasons sufficient to justify a waiver. Waivers will not be granted except upon an affirmative showing:

(i) That the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and that grant of the waiver is otherwise in the public interest; or

(ii) That the unique facts and circumstances of a particular case render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest. Applicants must also show the lack of a reasonable alternative.

(2) If the information necessary to support a waiver request is already on file, the applicant may cross-reference to the specific filing where it may be found.

(b) Denial of waiver, alternate showing required. If a waiver is not granted, the application will be dismissed as defective unless the applicant has also provided an alternative proposal which complies with the Commission's rules (including any required showings).

Section 24.820 Defective Applications

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, execution or other matters of a formal character; or

(2) The application does not comply with the Commission's rules, regulations, specific requirements for additional information or other requirements. *See also* § 1.2105 of this Chapter.

(b) Some examples of common deficiencies which result in defective applications under paragraph (a) of this section are:

(1) The application is not filled out completely and signed;

(2)–(4) [Reserved]

(5) The application (other an application filed on FCC Form 175) does not include an environmental assessment as required for an action that may have a significant impact upon the environment, as defined in § 1.1307 of this chapter.

(6) [Reserved]

(7) The application is filed prior to the Public Notice issued under § 24.705, announcing the application filing date for the relevant auction or after the cutoff date prescribed in that Public Notice.

(c) [Reserved]

(d) If an applicant is requested by the Commission to file any documents or any supplementary or explanatory information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

Section 24.821 Inconsistent or Conflicting Applications

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, its successor or assignee, or on behalf or for the benefit of the same applicant, its successor or assignee.

Section 24.822 Amendment of Application to Participate in Auction for Licenses in the Broadband Personal Communications Services Filed on FCC Form 175

(a) The Commission will provide bidders a limited opportunity to cure defects in FCC Form 175 specified herein except for failure to sign the application and to make certifications, defects which may not be cured. *See also* § 1.2105 of this Chapter.

(b) In the broadband PCS, the only amendments to FCC Form 175 which will be permitted are minor amendments to correct minor errors or defects such as typographical errors. All other amendments to FCC Form 175, such as changes in the information supplied pursuant to § 24.813(a) or changes in the identification of parties to bidding consortia, will be considered to be major amendments. An FCC Form 175 which is amended by a major amendment will be considered to be newly filed and cannot be resubmitted after applicable filing deadlines. *See also* § 1.2105 of this Chapter.

Section 24.823 Amendment of Applications for Licenses in the Broadband Personal Communications Services (Other Than Applications Filed on FCC Form 175)

(a) Amendments as of right. A pending application may be amended as a matter of right if the application has not been designated for hearing.

(1) Amendments shall comply with § 24.829, as applicable; and

(2) Amendments which resolve interference conflicts or amendments under § 24.829 may be filed at any time.

(b) The Commission or the presiding officer may grant requests to amend an application designated for hearing only if a written petition demonstrating good cause is submitted and properly served upon the parties of record.

(c) Major amendments, minor amendments. The Commission will classify all amendments as minor except in the cases listed below. An amendment shall be deemed to be a major amendment subject to § 24.827 if it proposes a substantial change in ownership or control.

(d) If a petition to deny (or other formal objection) has been filed, any amendment, request for waiver or other written communication shall be served on the petitioner, unless waiver of this requirement is granted pursuant to paragraph (e) of this section. *See also* § 1.2108 of this Chapter.

(e) The Commission may waive the service requirements of paragraph (d) of this section and prescribe such alternative procedures as may be appropriate under the circumstances to protect petitioners' interests and to avoid undue delay in a proceeding, if an applicant submits a request for waiver which demonstrates that the service requirement is unreasonably burdensome.

(f) Any amendment to an application shall be signed and shall be submitted in the same manner, and with the same number of copies, as was the original application. Amendments may be made in letter form if they comply in all other respects with the requirements of this chapter.

(g) An application will be considered to be a newly-filed application if it is amended by a major amendment (as defined in this section), except in the following circumstances:

(1) [Reserved]

(2) [Reserved]

(3) The amendment reflects only a change in ownership or control found by the Commission to be in the public interest;

(4) [Reserved]

(5) The amendment corrects typographical transcription or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts.

Section 24.824 [Reserved]

Section 24.825 Application for Temporary Authorizations

(a) In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment. Any such request may be submitted as an informal application in the manner set forth in § 24.805 and must contain full particulars as to the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No such request will be considered unless the request is received by the Commission at least 10 days prior to the date of proposed construction or operation or, where an extension is sought, at least 10 days prior to the expiration date of the existing temporary authorization. The Commission may accept a late-filed request upon due showing of sufficient reasons for the delay in submitting such request.

(b) Special temporary authorizations may be granted without regard to the 30-day public notice requirements of § 24.827(b) when:

(1) The authorization is for a period not to exceed 30 days and no application for regular operation is contemplated to be filed;

(2) The authorization is for a period not to exceed 60 days pending the filing of an application for such regular operation;

(3) The authorization is to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as previously authorized; or

(4) The authorization is made upon a finding that there are extraordinary circumstances requiring operation in the public interest and that delay in the institution of such service would seriously prejudice the public interest.

(c) Temporary authorizations of operation not to exceed 180 days may be granted under the standards of Section 309(f) of the Communications Act where extraordinary circumstances so require. Extensions of the temporary authorization for a period of 180 days each may also be granted, but the applicant bears a heavy burden to show that extraordinary circumstances warrant such an extension.

(d) In cases of emergency found by the Commission, involving danger to life or property or due to damage of equipment, or during a national emergency proclaimed by the president or declared by the Congress or during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or safety or otherwise is furtherance of the war effort, or in cases of emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licenses or otherwise to follow normal licensing procedure, the Commission will grant radio station authorizations and station licenses, or modifications or renewal thereof, during the emergency found by the Commission or during the continuance of any such national emergency or war, as special temporary licenses, only for the period of emergency or war requiring such station, without the filing of formal applications.

Section 24.826 Receipt of Application; Applications in the Broadband Personal Communications Services Filed on FCC Form 175 and Other Applications in the Broadband Personal Communications Services

(a) All applications for the initial provision of broadband PCS must be submitted on FCC Forms 175 and 175-S. Mutually exclusive initial applications in the broadband Personal Communications Services are subject to competitive bidding. FCC Form 401 ("Application for New or Modified Common Carrier Radio Station Under Part 22") must be submitted by each winning bidder for each broadband PCS license for which application was made on FCC Form 175. In the event that mutual exclusivity does not exist between applicants for a broadband PCS license that have filed FCC Form 175, the sole applicant will be required to file FCC Form 401. The aforementioned Forms 175, 175-S, and 401 are subject to the provisions of 47 CFR Part 1, Subpart Q ("Competitive Bidding Proceedings") and Subpart H of this Part. Blanket licenses are granted for each market frequency block. Applications for individual sites are not needed and will not be accepted. *See* § 24.11.

(b) Applications received for filing are given a file number. The assignment of a file number to an application is merely for administrative convenience and does not indicate the acceptance of the application for filing and processing. Such assignment of a file number will not preclude the subsequent return or dismissal of the application if it is found to be not in accordance with the Commission's Rules.

(c) Acceptance of an application for filing merely means that it has been the subject of a preliminary review as to completeness. Such acceptance will not preclude the subsequent return or dismissal of the application if it is found to be defective or not in accordance with the Commission's rules. (*See* § 24.813 for additional information concerning the filing of applications.)

Section 24.827 Public Notice Period

(a) At regular intervals, the Commission will issue a public notice listing:

(1) The acceptance for filing of all applications and major amendments thereto;

(2) Significant Commission actions concerning applications listed as acceptable for filing;

(3) Information which the Commission in its discretion believes of public significance. Such notices are intended solely for the purpose of informing the public and do not create any rights in an applicant or any other person.

(4) Special environmental considerations as required by Part 1 of this chapter.

(b) The Commission will not grant any application until expiration of a period of thirty (30) days following the issuance of a public notice listing the application, or any major amendments thereto, as acceptable for filing; provided, however, that the Commission will not grant an application filed on Form 401 filed either by a winning bidder or by an applicant whose Form 175 application is not mutually exclusive with other applicants, until the expiration of a period of forty (40) days following the issuance of a public notice listing the application, or any major amendments thereto, as acceptable for filing. *See also* § 1.2108 of this Chapter.

(c) As an exception to paragraphs (a)(1), (a)(2) and (b) of this section, the public notice provisions are not applicable to applications:

(1) For authorization of a minor technical change in the facilities of an authorized station where such a change would not be classified as a major amendment (as defined by § 24.823) were such a change to be submitted as an amendment to a pending application;

(2) For issuance of a license subsequent to a radio station authorization or, pending application for a grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license;

(3) For extension of time to complete construction of authorized facilities (*see* § 24.203;

(4) For temporary authorization pursuant to § 24.825(b);

(5) [Reserved]

(6) For an authorization under any of the proviso clauses of Section 308(a) of the Communications Act of 1934 (47 U.S.C. 308(a));

(7) For consent to an involuntary assignment or transfer of control of a radio authorization; or

(8) For consent to a voluntary assignment or transfer of control of a radio authorization, where the assignment or transfer does not involve a substantial change in ownership or control.

Section 24.828 Dismissal and Return of Applications

(a) Except as provided under § 24.829, any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal prior to designation for hearing or, in the case of applications filed on Forms 175 and 175–S, prior to auction. An applicant's request for the return of his application after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Applicants requesting dismissal of their applications may be subject to penalties contained in § 1.2104 of this Chapter. Requests for dismissal shall comply with the provisions of § 24.829 as appropriate.

(b) A request to dismiss an application without prejudice will be considered after designation for hearing only if:

(1) A written petition is submitted to the Commission and is properly served upon all parties of record, and

(2) The petition complies with the provisions of § 24.829 (whenever applicable) and demonstrates good cause.

(c) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal shall be without prejudice if made prior to designation for hearing or prior to auction, but dismissal may be made with prejudice for unsatisfactory compliance with § 24.829 or after designation for hearing or after the applicant is notified that it is the winning bidder under the auction process.

Section 24.829 Ownership Changes and Agreements to Amend or to Dismiss Applications or Pleadings

(a) Applicability. Subject to the provisions of § 1.2105 of this Chapter (Bidding Application and Certification Procedures; Prohibition of Collusion), this section applies to applicants and all other parties interested in pending applications who wish to resolve contested matters among themselves with a formal or an informal agreement or understanding. This section applies only when the agreement or understanding will result in:

(1) A major change in the ownership of an applicant to which §§ 24.823(c) and 24.823(g) apply or which would cause the applicant to lose its status as a designated entity under § 24.709, or

(2) The individual or mutual withdrawal, amendment or dismissal of any pending application, amendment, petition or other pleading.

(b) Policy. Parties to contested proceedings are encouraged to settle their disputes among themselves. Parties that, under a settlement agreement, apply to the Commission for ownership changes or for the amendment or dismissal of either pleadings or applications shall at the time of filing notify the Commission that such filing is the result of an agreement or understanding.

(c) The provisions of § 22.927 of the Commission's Rules will apply in the event of the filing of petitions to deny or other pleadings or informal objections filed against broadband PCS applications. The provisions of § 22.928 of the Commission's Rules will apply in the event of dismissal of broadband PCS applications. The provisions of § 22.929 of the Commission's Rules will apply in the event of threats to file petitions to deny or other pleadings or informal objections against broadband PCS applications.

Section 24.830 Opposition to Applications

(a) Petitions to deny (including petitions for other forms of relief) and responsive pleadings for Commission consideration must comply with § 1.2108 of this Chapter and must:

(1) Identify the application or applications (including applicant's name, station location, Commission file numbers and radio service involved) with which it is concerned;

(2) Be filed in accordance with the pleading limitations, filing periods, and other applicable provisions of §§ 1.41 through 1.52 of this Chapter except where otherwise provided in § 1.2108 of this Chapter;

(3) Contain specific allegations of fact which, except for facts of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof, and which shall be sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant of, or other Commission action regarding, the application would be *prima facie* inconsistent with the public interest;

(4) Be filed within thirty (30) days after the date of public notice announcing the acceptance for filing of any such application or major amendment thereto (unless the Commission otherwise extends the filing deadline); and

(5) Contain a certificate of service showing that it has been mailed to the applicant no later than the date of filing thereof with the Commission.

(b) A petition to deny a major amendment to a previously-filed application may only raise matters directly related to the amendment which could not have been raised in connection with the underlying previously-filed application. This subsection does not apply, however, to petitioners who gain standing because of the major amendment.

Section 24.831 Mutually Exclusive Applications

(a) The Commission will consider applications for broadband PCS licenses to be mutually exclusive if they relate to the same geographical boundaries (MTA or BTA) and are timely filed for the same frequency block.

(b) Mutually exclusive applications filed on Form 175 for the initial provision of broadband PCS are subject to competitive bidding in accordance with the procedures in Subpart H of this part and in Part 1, Subpart Q of this Chapter.

(c) An application will be entitled to comparative consideration with one or more conflicting applications only if the Commission determines that such comparative consideration will serve the public interest.

(d)–(j) [Reserved]

Section 24.832 Consideration of Applications

(a) Applications for an instrument of authorization will be granted if, upon examination of the application and upon consideration of such other matters as it may officially notice, the Commission finds that the grant will serve the public interest, convenience and necessity. *See also* § 1.2108 of this Chapter.

(b) The grant shall be without a formal hearing if, upon consideration of the application, any pleadings or objections filed, or other matters which may be officially noticed, the Commission finds that:

(1) The application is acceptable for filing and is in accordance with the Commission's rules, regulations and other requirements;

(2) The application is not subject to a post-auction hearing or to comparative consideration pursuant to § 24.831 with another application(s);

(3) A grant of the application would not cause harmful electrical interference to an authorized station;

(4) There are no substantial and material questions of fact presented; and

(5) The applicant is qualified under current FCC regulations and policies.

(c) If the Commission should grant without a formal hearing an application for an instrument of authorization which is subject to a petition to deny filed in accordance with § 24.830, the Commission will deny the petition by the issuance of a Memorandum Opinion and Order which will concisely state the reasons for the denial and dispose of all substantial issues raised by the petition.

(d) Whenever the Commission, without a formal hearing, grants any application in part, or subject to any terms or conditions other than those normally applied to applications of the same type, it shall inform the applicant of the reasons therefor, and the grant shall be considered final unless the Commission revises its action (either by granting the application as originally requested, or by designating the application for a formal evidentiary hearing) in response to a petition for reconsideration which:

(1) Is filed by the applicant within thirty (30) days from the date of the letter or order giving the reasons for the partial or conditioned grant;

(2) Rejects the grant as made and explains the reasons why the application should be granted as originally requested; and

(3) Returns the instrument of authorization.

(e) The Commission will designate an application for a formal hearing, specifying with particularity the matters and things in issue, if upon consideration of the application, any pleadings or objections filed or other matters which may be officially noticed, the Commission determines that:

(1) A substantial and material question of fact is presented (*see also* § 1.2108 of this Chapter);

(2) The Commission is unable for any reason to make the findings specified in paragraph (a) of this section and the application is acceptable for filing, complete and in accordance with the Commission's rules, regulations and other requirements; or

(3) The application is entitled to comparative consideration (under § 24.831) with another application (or applications).

(f) The Commission may grant, deny or take other action with respect to an application designated for a formal hearing pursuant to paragraph (e) of this section or Part 1 of this Chapter.

(g) [Reserved]

(h) Reconsideration or review of any final action taken by the Commission will be in accordance with Subpart A of Part 1 of this Chapter.

Section 24.833–24.838 [Reserved]

Section 24.839 Transfer of Control or Assignment of License

(a) Approval required. Authorizations shall be transferred or assigned to another party, voluntarily (for example, by contract) or involuntarily (for example, by death, bankruptcy or legal disability, directly or indirectly or by transfer of control of any corporation holding such authorization, only upon application and approval by the Commission. A transfer of control or assignment of station authorization in the broadband Personal Communications Service is also subject to §§ 24.711(e), 24.712(d), 24.713(b) (unjust enrichment) and 1.2111(a) of this Chapter (reporting requirement).

(1) A change from less than 50% ownership to 50% or more ownership shall always be considered a transfer of control.

(2) In other situations a controlling interest shall be determined on a case-by-case basis considering the distribution of ownership and the relationships of the owners, including family relationships.

(b) Forms required.

(1) Assignment.

(i) FCC Form 490 shall be filed to assign a license or permit.

(ii) In the case of involuntary assignment, FCC Form 490 shall be filed within thirty (30) days following the event giving rise to the assignment.

(2) Transfer of control.

(i) FCC Form 490 shall be submitted in order to transfer control of a corporation holding a license or permit.

(ii) In the case of involuntary transfer of control, FCC Form 490 shall be filed within thirty (30) days following the event giving rise to the transfer.

(3) Form 430. Whenever an application must be filed under paragraphs (a)(1) or (2) of this section, the assignee or transferee shall file FCC Form 430 ("Common Carrier Radio License Qualification Report") unless an accurate report is on file with the Commission.

(4) Notification of completion. The Commission shall be notified by letter of the date of completion of the assignment or transfer of control.

(5) If the transfer of control of a license is approved, the new licensee is held to the original construction requirement of § 24.203.

(c) In acting upon applications for transfer of control or assignment, the Commission will not consider whether the public interest, convenience and necessity might be served by the transfer or assignment of the authorization to a person other than the proposed transferee or assignee.

(d) Restrictions on Assignments and Transfers of Licenses for Frequency Blocks C and F. No assignment or transfer of control of a license for frequency Block C or frequency Block F will be granted unless—

(1) The application for assignment or transfer of control is filed after five years from the date of the initial license grant;

(2) The application for assignment or transfer of control is filed after three years from the date of the initial license grant and the proposed assignee or transferee meets the eligibility criteria set forth in § 24.709;

(3) The application is for partial assignment of a partitioned service area to a rural telephone company pursuant to § 24.714 and the assignee meets the eligibility criteria set forth in § 24.709; or

(4) The application is for an involuntary assignment or transfer of control to a bankruptcy trustee appointed under involuntary bankruptcy, an independent receiver appointed by a court of competent jurisdiction in a foreclosure action, or, in the event of death or disability, to a person or entity legally qualified to succeed the deceased or disabled person under the laws of the place having jurisdiction over the estate involved; provided that, the applicant requests a waiver pursuant to this paragraph.

(e) If the assignment or transfer of control of a license is approved, the assignee or transferee is subject to the original construction requirement of § 24.203.

Sections 24.840–24.842 [Reserved]

Section 24.843 Extension of Time To Complete Construction

(a) If construction is not completed within the time period set forth in § 24.203, the authorization will automatically expire. Before the period for construction expires an application for an extension of time to complete construction (FCC Form 489) may be filed. *See* paragraph (b) of this section. Within 30 days after the authorization expires an application for reinstatement may be filed on FCC Form 489.

(b) Extension of Time to Complete Construction. An application for extension of time to complete construction may be made on FCC Form 489. Extension of time requests must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to complete construction is due to causes beyond its control.

(c) An application for modification of an authorization (under construction) does not extend the initial construction period. If additional time to construct is required, an FCC Form 489 must be submitted.

(d) [Reserved]

Section 24.844 Termination of Authorization

(a) Termination of authorization.

(1) All authorizations shall terminate on the date specified on the authorization or on the date specified by these rules, unless a timely application for renewal has been filed.

(2) If no application for renewal has been made before the authorization's expiration date, a late application for renewal will be considered only if it is filed within thirty (30) days of the expiration date and shows that the failure to file a timely application was due to causes beyond the applicant's control. During this 30-day period, a reinstatement application must be filed on FCC Form 489. Service to subscribers need not be suspended while a late-filed renewal application is pending, but such service shall be without prejudice to Commission action on the renewal application and any related sanctions. *See also* § 24.16 (Criteria for Comparative Renewal Proceedings).

(b) Termination of special temporary authorization. A special temporary authorization shall automatically terminate upon failure to comply with the conditions in the authorization.

(c) [Reserved]

[FR Doc. 94–26386 Filed 10–21–94; 8:45 am]
BILLING CODE 6712–01–M

Notice of Third WRC–95 Industry Advisory Committee Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises persons of the third meeting of the WRC–95 Industry Advisory Committee.

DATES: October 27, 1994; 9:00 a.m.–12:00 p.m.

ADDRESSES: Latham & Watkins, 1001 Pennsylvania Avenue, NW, Suite 1300 South, Washington, D.C. 20004.

SUPPLEMENTARY: The WRC–95 Industry Advisory Committee was established by the Federal Communications Commission to provide to the agency advice, technical support and recommendations relating to preparation of U.S. proposals and positions for the 1995 World Radiocommunication Conference.

The proposed agenda for the third meeting is as follows:

Agenda

Third Meeting of the WRC–95 Industry Advisory Committee, Latham & Watkins, 1001 Pennsylvania Avenue, Suite 1300 South, Washington, DC 20004, October 27, 1994; 9:00 a.m.–12:00 p.m.

1. Opening Remarks
2. Approval of Agenda
3. Brief by NTIA Representative on Government-sector Preparatory Activities
4. Work Progress of the Informal Working Groups (IWGs)
5. Discussion of Form, Substance and Scheduling of the Committee's Preliminary Report to the FCC
6. Future Meeting schedule
7. Other Business

Also, attached for information is an updated meeting schedule of the Committee's IWGs. Participation in the Committee meeting and IWG meetings is open to all members of the public.

UPDATED IWG MEETING SCHEDULE

Date	Time	Group	Location
10/18	9:30A–12:30P	IWG–3	DoS, Rm 1207.
10/18	1:30P–4:30P	IWG–5	DoS, Rm 1205.
10/24	1:30P–4:30P	IWG–1	L,S&L, Ste. 600.
10/25	1:30P–4:30P	IWG–6	D,L&A, Ste. 500.
10/26	9:30A–12:30P	IWG–2	L,S&L, Ste. 600.
10/27	9:00A–12:00P	FULL IAC	L&W, Ste. 1300S.
11/8	9:30A–12:30P	IWG–3	DoS, Rm 1207.
11/8	1:30P–4:30P	IWG–4	DoS, Rm 1207.
11/8	1:30P–4:30P	IWG–5	DoS, Rm 1205.
11/10	1:30P–4:30P	IWG–6	D,L&A, Ste. 500.
11/15	9:30A–12:30P	IWG–1	L,S&L, Ste. 600.
12/12	9:00A–12:00P	IWG–6	D,L&A, Ste. 500.
12/13	9:30A–12:30P	IWG–3	DoS, Rm 1207.
12/13	1:30P–4:30P	IWG–4	DoS, Rm 1207.
12/15	1:30P–4:30P	IWG–5	DoS, Rm 1207.
12/20	9:30A–12:30P	IWG–3	DoS, Rm 1207.
12/20	1:30P–4:30P	IWG–4	DoS, Rm 1207.
12/22	1:30P–4:30P	IWG–5	DoS, Rm 1207.
12/27	9:30A–12:30P	IWG–3	DoS, Rm 1207.
12/27	1:30P–4:30P	IWG–4	DoS, Rm 1207.
12/29	1:30P–4:30P	IWG–5	DoS, Rm 1207.

Location	Address	Contact person
L&W	Latham & Watkins, 1001 Pennsylvania Ave., NW., Suite 1300 South, Washington, D.C. 20004.	Camille Alexander, (202) 637–2200.
DoS	Department of State, 2201 C Street, NW, Washington, DC 20702	Warren G. Richards, (202) 647–0201.
L, S&L	Leventhal, Senter & Lerman, 2000 K Street, NW, Ste. 600, Washington, DC 20036	Raul Rodriguez, (202) 429–8970.
D, L&A	Dow, Lohnes & Albertson, 1255 23rd Street, NW, Ste. 500, Washington, D.C. 20037	Len Kennedy, (202) 857–2505.

Note: Persons attending meetings at DoS must call (202) 647–0201 for preclearance.

Participation in these meetings is open to all members of the public. For information contact Damon C. Ladson, Office of International Communications, (202) 418–0420.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–26257 Filed 10–21–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 94–22]

Shirley R. Knull and Frances E. Mincer, Doing Business as All Freight International; Order of Investigation and Hearing

Shirley R. Knull and Frances E. Mincer have been doing business as All Freight International, pursuant to a fictitious business name filed with Los Angeles County in February 1991. It appears that subsequent to October 1991, Shirley R. Knull and Francis E. Mincer, as All Freight International, dispatched or handled over 800 shipments of rags, waste materials and other goods in the foreign commerce of the United States. It also appears that Ms. Knull and Ms. Mincer, as All Freight International, booked or otherwise arranged space for the shipments with ocean common carriers and processed corresponding shipping documents, such as bills of lading and export declarations. It further appears that All Freight International invoices for freight forwarder compensation were submitted to various ocean common carriers, identifying All Freight as the holder of Federal Maritime Commission freight forwarder license No. 7826 and customshouse broker license No. 11472. It also appears the checks issued by common carriers pursuant to such invoices for freight forwarder compensation were endorsed by Ms. Mincer and deposited to the bank account maintained under the trade name of All Freight International and Ms. Mincer.

Section 19(a) of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. § 1718(a), prohibits any person from acting as an ocean freight forwarder unless that person holds a license issued by the Federal Maritime Commission ("Commission" or "FMC").[1] Neither Ms. Knull nor Ms. Mincer was licensed individually by the Commission as an ocean freight forwarder. In addition, according to a review of records maintained by the Commission's Office of Freight Forwarders, the Commission has never issued FMC freight forwarder license No. 7826. Therefore, Ms. Knull and Ms. Mincer, both doing business as All Freight International, may have acted in the capacity of an unlicensed ocean freight forwarder, in violation of section 19(a) of the 1984 Act.

Now therefore, it is ordered, That pursuant to sections 11, 13, and 19 of the 1984 Act, 46 U.S.C. app. §§ 1710, 1712, and 1718, an investigation is instituted to determine:

(1) Whether Shirley R. Knull and Francis E. Mincer, doing business as All Freight International, jointly or severally, violated section 19(a) of the 1984 Act by acting as an ocean freight forwarder without a license issued by the Commission;

(2) Whether, in the event violations of sections 19(a) of the 1984 Act are found, civil penalties should be assessed and, if so, the amount of such penalties; and

(3) Whether, in the event violations are found, an appropriate cease and desist order should be issued.

It is further ordered, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only after consideration has been given by the parties and the Presiding Administrative Law Judge to the use of alternative forms of dispute resolution, and upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That Shirley R. Knull and Francis E. Mincer are designated respondents in this proceeding;

It is further ordered, That the Commission's Bureau of Hearing Counsel is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the **Federal Register**, and a copy be served on parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.72;

It is further ordered, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 C.F.R. § 502.118, and shall be served on parties of record;

It is further ordered, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, the initial decision of the Administrative Law Judge shall be issued by October 18, 1995 and the final decision of the Commission shall be issued by February 19, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 94–26223 Filed 10–21–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Bancorporation of Ohio; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal

[1] An ocean freight forwarder is defined in section 3(19) of the 1984 Act, 46 U.S.C. app. § 1702(19), as a person in the United States that—

(A) dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(B) processes the documentation or performs related activities incident to those shipments.

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 18, 1994.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Bancorporation of Ohio, Akron, Ohio; to acquire The CIVISTA Corporation, Canton, Ohio, thereby indirectly acquire Citizens Savings Bank of Canton, Canton, Ohio, and engage in acquiring all outstanding shares of the target and engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94–26258 Filed 10–21–94; 8:45 am]

BILLING CODE 6210–01–F

Fourth Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than November 18, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fourth Financial Corporation, Wichita, Kansas; to acquire 100 percent of the voting shares of Standard Bancorporation, Inc., Lincoln, Nebraska, and thereby indirectly acquire Standard Bank and Trust, Independence, Missouri.

Board of Governors of the Federal Reserve System, October 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-26259 Filed 10-21-94; 8:45 am]

BILLING CODE 6210-01-F

Stewart Whitham, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 14, 1994.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Stewart A. Whitham, Leoti, Kansas, to acquire an additional 2.00 percent, for a total of 50.84 percent, of the voting shares of Whiticorp Financial Company, Leoti, Kansas, and thereby indirectly acquire First National Bank in Lamar, Lamar, Colorado, and First State Bank, Leoti, Kansas.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Christopher Thomas Moser, San Antonio, Texas; to acquire 4.61 percent, for a total of 10.29 percent; William B. Moser, Jr., Beeville, Texas, to retain a total of 6.64 percent; Margaret Lyne Moser, Beeville, Texas, to retain a total of 4.04 percent; William Barnett Moser, III, Live Oak County, Texas, to retain a total of 1.65 percent; Katheryn Olivia Moser Trust, San Antonio, Texas to retain a total of .35 percent; Sybil Small West Grantor Trust, San Antonio, Texas, to retain a total of .35 percent; Edward Zacharias Lyne Moser, San Antonio, Texas, to acquire .17 percent, for a total of 2.92 percent; and Ruth Moser Davies, Austin, Texas, to retain a total of 1.64 percent of the voting shares of First Community, Inc., and thereby indirectly acquire State Bank & Trust Company, Beeville, Texas, and Commercial State Bank, Sinton, Texas.

Board of Governors of the Federal Reserve System, October 18, 1994.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 94-26260 Filed 10-21-94; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting

The National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: The Fetal Alcohol Syndrome (FAS) Prevention Technical Assistance Workshop.

Time and date: 8:30 a.m.–4 p.m., November 7, 1994.

Place: The Atheneum Suite Hotel and Conference Center, 1000 Brush Avenue, Detroit, Michigan 48226, telephone (313) 962–2323.

Status: Open to recipients of CDC FAS Prevention and Research Cooperative Agreements, recipients of Disability Prevention Program Cooperative Agreements with FAS project activities, others interested in FAS prevention and research, and the general public.

Purpose: FAS is a birth defect syndrome which is the most common environmental cause of mental retardation. Studies estimate that there are about 8,000 new cases of FAS each year, even though the cause has been known since the early 1970's. Although FAS has no cure, it is preventable. CDC is actively involved in research on the prevalence of FAS in different populations, epidemiologic risk factors associated with FAS, methods for identifying specific women at risk for having children with FAS, and what types of intervention strategies will be most successful at reducing the incidence of FAS.

Matters to be discussed: At the meeting, CDC will provide technical and administrative assistance to States and universities currently receiving CDC funding for the implementation of research and prevention programs related to FAS.

Contact person for additional information: Louise Floyd, D.S.N., Chief, FAS Prevention Section, Developmental Disabilities Branch, (F–15), NCEH, CDC, 4770 Buford Highway, NE, Chamblee, Georgia, 30341, telephone 404/243–7370.

Dated: October 18, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–26242 Filed 10–21–94; 8:45 am]

BILLING CODE 4163–18–M

Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Follow-up Meeting to the National Conference on Childhood Lead Poisoning Prevention Education.

Times and dates: 6:30 p.m.–7:30 p.m., November 9, 1994. 8:30 a.m.–4:30 p.m., November 10, 1994.

Place: Sheraton Gateway Hotel, 1900 Sullivan Road, College Park, Georgia 30337.

Status: Open to the public, limited only by space available.

Purpose: This meeting will convene a group of selected participants from the March 1994 Conference on Childhood Lead Poisoning Prevention Education held in Atlanta, Georgia, to further discuss a national lead education strategy for Federal agencies.

Matters to be discussed: Selected representatives from Federal, State, and local government agencies, to be facilitated by an expert in the field of health education, will address coordination issues associated with Federal educational interventions on lead poisoning prevention.

Agenda items are subject to change as priorities dictate.

Contact person for more information: Niki Keiser, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects (F42), NCEH, CDC, 4770 Buford Highway, NE, Chamblee, Georgia 30341–3724, telephone 404/488–7330.

Written comments are welcome and should be received by the contact person no later than November 4, 1994. Persons wishing to make oral comments at the meeting should notify the contact person in writing or by telephone no later than close of business November 4, 1994. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. Depending on the time available and the number of requests to make oral comments, it may be necessary to limit the time of each presenter.

Dated: October 18, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–26241 Filed 10–21–94; 8:45 am]

BILLING CODE 4163–18–M

Meeting To Address Issues on Metalworking Fluids

The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Meeting to Address Issues on Metalworking Fluids.

Time and date: 9 a.m.–5 p.m., November 2–3, 1994.

Place: Robert A. Taft Laboratories, Auditorium, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Status: Open to the public, limited only by the space available. The meeting room accommodates 151 people.

Purpose: The purpose of this meeting is to provide a forum for the discussion of metalworking fluids' (MWFs) applications, and related issues of occupational safety and health and engineering controls. Presenters will discuss past and present MWF formulations, use, worker exposures, worker protection measures, and current and proposed research. This meeting will provide an opportunity for discussion among Government (NIOSH, the Environmental Protection Agency, and the Occupational Safety and Health Administration), organized labor, and industry representatives on possible collaborative research and future meetings.

Contact persons for additional information: General information may be obtained from Judy Curless, NIOSH, CDC, 4676 Columbia Parkway, Mailstop C–32, Cincinnati, Ohio 45226, telephone 513/533-8314.

Technical information may be obtained from Brenda Boutin, NIOSH, CDC, 4676 Columbia Parkway, Mailstop C–32, Cincinnati, Ohio 45226, 513/533/8314.

Dated: October 18, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–26243 Filed 10–21–94; 8:45 am]

BILLING CODE 4160–19–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–94–3635; FR–3375–N–02]

Announcement of Funding Awards for Public and Indian Housing Youth Sports Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, 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 decisions made by the Department in a competition for funding under the NOFA for Public and Indian Housing Youth Sports Program. The announcement contains the names and addresses of the award winners and the amounts of awards.

FOR FURTHER INFORMATION CONTACT: Robin Prichard, Drug-Free Neighborhoods Division, Office of Resident Initiatives, Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–1197 or 708–3052. The TDD number for the hearing impaired is (202) 708–0850. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Public and Indian Housing Youth Sports program is authorized by section 520 of the National Affordable Housing Act (approved November 28, 1990, Pub. L. 101–625), as amended by section 126 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992).

The purpose of the competition was to award grant funding for approximately $8,250,000 for Youth Sports Program to be used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in public or Indian housing developments. The 1994 awards announced in this Notice were selected for funding in a competition announced in a **Federal Register** notice published on July 6, 1993 (58 FR 36254). Applications were scored and selected for funding on the basis of selection criteria contained in that Notice.

A total of $8,250,000 has been awarded to seventy-two grantees. In

accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards as follows:

FISCAL YEAR 1993, PUBLIC AND INDIAN HOUSING, RECIPIENTS OF FIRST AND SECOND QUARTER FUNDING DECISIONS

[Program Name: Public and Indian Housing Youth Sports Program (YSP)]

[Statute: Public Law 101–625, November 28, 1990]

Funding recipient (name and address)	Amount approved
Lynn Housing Authority, 174 So. Common St., Lynn, MA 01905–2513	$125,000
Lawrence Housing Authority, 353 Elm St., Lawrence, MA 01842	125,000
Cambridge Housing Authority, 270 Green St., Cambridge, MA 02139–3360	125,000
New York City Housing Authority, 250 Broadway, New York, NY 10007–2516	125,000
Municipal Housing Auth. for the City of Yonkers, P.O. Box 35, Yonkers, NY 10710–0035	125,000
Syracuse Municipal Housing Authority, 516 Burt St., Syracuse, NY 13202–3999	124,530
Housing Opportunity Commission, Montgomery County, 10400 Detrick Ave., Kensington, MD 20895	125,000
Newport News Redevelopment & Housing Authority, P.O. Box 77, Newport News, VA 23607–0077	125,000
Charlottesville Redevelopment & Housing Authority, P.O. Box 1405, Charlottesville, VA 22902–1405	53,883
Housing Authority of Greene County, Al, P.O. Box 389, Eutaw, AL 35462–0389	125,000
Tampa Housing Authority, 1514 Union Street, Tampa, FL 33607	125,000
Hsg. Auth. of the City of Sarasota, 1300 Sixth Street, Sarasota, FL 34236	125,000
Dade County HUD, P.O. Box 350250, Miami, FL 33125	125,000
Housing Authority of the City of Macon, P.O. Box 4928, Macon, GA 31208–4928	125,000
Housing Authority of Covington, 2940 Madison Ave., Covington, KY 41015	125,000
Housing Authority of Louisville, 420 South Eighth St., Louisville, KY 40203	125,000
Housing Authority of Lexington, 635 Ballard Street, Lexington, KY 40508	125,000
The Housing Authority of the City of Tupelo, P.O. Box 3, Tupelo, MS 38802–0003	125,000
The Housing Authority of the City of Vicksburg, P.O. Box 865, Vicksburg, MS 39181–0865	78,974
The Housing Authority of the City of Biloxi, P.O. Box 447, Biloxi, MS 39533	125,000
Housing Authority of the City of High Point, P.O. Box 1779, High Point, NC 27261	125,000
Greenville Housing Authority, P.O. Box 1426, Greenville, NC 27835–1426	125,000
Greensboro Housing Authority P.O. Box 21287, Greensboro, NC 27420	125,000
Columbia PHA, 1917 Harden Street, Columbia, SC 29204–4307	98,267
McMinnville Housing Authority, 301 Hardaway Street, McMinnville, TN 37110	11,298
Seminole Tribe of Florida, 3101 N. 63rd. Avenue, Hollywood,, FL 33024	120,250
Decatur Housing Authority, 1808 E Locust St., Decatur, IL 62521–1409	125,000
Rock Island City Housing Authority, 111 20th St., Rock Island, IL 61201–8827	125,000
Sault Ste. Marie Tribal Housing Authority, 2218 Shunk Road, Sault Ste. Marie, MI 49783	125,000
Public Housing Agency of the City of Saint Paul, 413 Wacouta Street, St. Paul, MN 55101–1992	125,000
Dayton Metropolitan Housing Authority, 400 Wayne Avenue, Dayton, OH 45410–1106	125,000
Zanesville Metropolitan Housing Authority, 863 Durban Drive, Zanesville, OH 43701	125,000
Portsmouth Metropolitan Housing Authority, 410 Court Street, Portsmouth, OH 45662	125,000
Allen Metropolitan Housing Authority, 600 S. Main St., Lima, OH 45804	124,910
Superior Housing Authority, 1219 North Eighth St., Superior, WI 54880	103,346
Housing Authority of the City of Milwaukee, P.O. Box 324, Milwaukee, WI 53201	125,000
Green Bay Housing Authority, 100 N. Jefferson St., Green Bay, WI 54301	29,417
Housing Authority of the City of Arkadelphia, 670 S. 6th Street, Arkadelphia, AR 71923	31,100
Housing Authority of the City of Fort Smith, 2100 N. 31st Street, Fort Smith, AR 72904–6199	82,177
Housing Authority of the City of Camden, Box 39, Camden, AR 71701–0039	125,000
Housing Authority of the City of Little Rock, 1000 Wolfe Street, Little Rock, AR 72202	125,000
Housing Authority of the City of Helena, 1000 Holly Street, Helena, AR 72342–2699	45,455
Housing Authority of the City of North Little Rock, Box 516, North Little Rock, AR 72115–0516	125,000
Housing Authority of Monroe, P.O. Box 1194, Monroe, LA 71201–1194	125,000
Housing Authority of East Baton Rouge Parish, 4546 North St., Baton Rouge, LA 70806–3422	124,903
Delaware Tribe IHA, P.O. Box 334, Chelsea, OK 74016–0334	125,000
Sac & Fox Tribe of OK IHA, P.O. Box 1252, Shawnee, OK 74801–1252	125,000
Housing Authority of Fort Worth, P.O. Box 430, Fort Worth, TX 76101–0430	125,000
Housing Authority of Dallas, 3939 North Hampton, Dallas, TX 75212–0000	125,000
Housing Authority of Temple, P.O. Box 634, Temple, TX 76503–0634	96,898
Housing Authority of the City of Galveston, 920 53rd Street, Galveston, TX 77551–1099	125,000
Housing Authority of the City of Houston, P.O. Box 2971, Houston, TX 77252–2971	91,172
Topeka Housing Authority, 1312 Polk, Topeka, KS 66612	125,000
Omaha Housing Authority, 540 South 27th St., Omaha, NE 68105–1521	125,000
Scotts Bluff County Housing Authority, 89A Woodley Park Rd., Gering, NE 69341–1633	125,000
Housing Authority of the City of Boulder, 3120 Broadway, Boulder, CO 80304	124,748
Denver Housing Authority, P.O. Box 4305, Denver, CO 80204	125,000
Chippewa Cree, P.O. Box 615, Box Elder, MT 59521	125,000
Crow Tribal, P.O. Box 99, Crow Agency, MT 59022	125,000
Fort Berthold, P.O. Box 310, New Town, ND 58763	125,000
Housing Authority of the County of Salt Lake, 1962 S. 200 E., Salt Lake City, UT 84115	86,084
Housing Authority of the County of San Mateo, 264 Harbor Boulevard, Belmont, CA 94002	90,138
Housing Authority of the County of Marin, P.O. Box 4282, San Rafael, CA 94913–4282	125,000
Community Development Commission, County of L.A., 2525 Corporate Place, Monterey Park, CA 91754	107,450
Housing Authority of the City of Santa Barbara, 808 Laguna Street, Santa Barbara, CA 93101–1590	125,000

FISCAL YEAR 1993, PUBLIC AND INDIAN HOUSING, RECIPIENTS OF FIRST AND SECOND QUARTER FUNDING DECISIONS—Continued

[Program Name: Public and Indian Housing Youth Sports Program (YSP)]
[Statute: Public Law 101–625, November 28, 1990]

Funding recipient (name and address)	Amount approved
San Diego Housing Commission, 1625 Newton Ave., San Diego, CA 92113	125,000
Housing Authority of the City of Los Angeles, 515 Columbia Ave., Los Angeles, CA 90017–1295	125,000
Bristol Bay HA, P.O. Box 750, Dillingham, AK 99576	125,000
HA and Community Services Agency of Lane County, 177 Day Island Rd, Eugene, OR 97401	125,000
Housing Authority of Portland, 135 SW. Ash Street, Portland, OR 97204	125,000
Housing Authority of the City of Salem, P.O. Box 808, Salem, OR 97308–0808	125,000
Makah, P.O. Box 88, Neah Bay, WA 98357–0088	125,000
Total Amount Funded	8,250,000

Dated: October 17, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–26212 Filed 10–21–94; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–1110–00]

Wells Resource Management Plan Draft Elk Amendment and Environmental Assessment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of the public comment period.

SUMMARY: Due to requests of the general public and the Elko Board of County Commissioners, the public comment period is extended for the Wells Resource Management Plan Draft Elk Amendment and Environmental Assessment.

DATES: The public comment period has been extended from August 31, 1994 to December 2, 1994. All written comments for this draft document must be postmarked no later than this extended date.

ADDRESSES: Written comments should be addressed to: Wells Area Manager, Bureau of Land Management, 3900 East Idaho Street, P.O. Box 831, Elko, Nevada 89803.

FOR FURTHER INFORMATION CONTACT: Bill Baker, Wells Area Manager, at the above address or telephone (702) 753–0200.

Dated: October 7, 1994.

Ronald B. Wenker,

Acting State Director, Nevada.

[FR Doc. 94–26301 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–HC–M

[NV–930–4210–05; N–58756]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and Public Purpose Lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purpose Act, as amended (43 U.S.C. 869 et seq.). The City of Las Vegas proposes to use the land for a public park.

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
Sec. 28: W½SE¼NW¼, E½SW¼NW¼, NW¼SW¼NW¼.

Containing 50.00 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. An easement 30.00 feet in width along the north boundary in favor of the City of Las Vegas for roads, public utilities and flood control purposes.

2. An easement 50.00 feet in width along the west boundary in favor of the City of Las Vegas for roads, public utilities and flood control purposes.

3. An easement 40.00 feet in width along the south boundary in favor of the City of Las Vegas for roads, public utilities and flood control purposes. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public lands laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a church facility. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of

development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a church facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: October 13, 1994.

Gary Ryan,

District Manager, Las Vegas, NV.

[FR Doc. 94–26287 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–HC–M

[NV–060–1610–00]

Proposed Tonopah Resource Management Plan and Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability and protest period.

SUMMARY: The Proposed Tonopah Resource Management Plan (RMP) (Chapter 2 in the document) outlines the proposed management of renewable and non-renewable resources on approximately 6.1 million acres of public lands in portions of Nye and Esmeralda Counties, Nevada. The Final Environmental Impact Statement (EIS) portions of this document analyze the impacts that may result with the implementation of the proposed plan, including the proposed designation of seven areas of critical environmental concern (ACEC). This document also contains the public comments on the Draft RMP/EIS and responses to the issues pertaining to the RMP that the public raised.

DATES: A 30-day protest period begins on October 21, 1994. Any protests must be postmarked on or before November 21, 1994.

ADDRESSES: Protests must be filed with the Director (760), Bureau of Land Management, Division of Planning and Environmental Coordination (406 LS), 1849 C Street NW, Washington, D.C. 29240.

Copies of the Proposed RMP may be obtained by writing to: Tonopah Resource Area, Bureau of Land Management, P.O. Box 911, Tonopah, NV 89049. Copies may also be picked up in person at Bldg. 102, Military Circle in Tonopah, Nevada

FOR FURTHER INFORMATION CONTACT: Ted Angle, Area Manager, at the above Tonopah, Nevada address or telephone (702) 482–7800.

SUPPLEMENTARY INFORMATION: Seven ACECs are being considered for designation in the Proposed Plan and Final EIS. Resource limitations and associated impacts have been analyzed in this document. The following is a list of the proposed ACECs and acreages for each:

Lunar Crater—39,000
Amargosa-Oasis—490
Cane Man Hill—680
Lone Mountain—14,400
Railroad Valley—15,470
Rhyolite—425
Tybo-McIntyre Charcoal Kilns—80

Because of the complexity of displaying the resource limitations of each proposed ACEC in this "Notice," we ask the public to refer to the section on ACECs in Chapter 2 of the Proposed RMP.

The Proposed RMP may be protested by any person who participated in the planning process, and who has an interest which is or may be adversely affected by the approval of the Proposed Plan. A protest may raise only those issues which were submitted for the record during the planning process (see 43 Code of Federal Regulations, Section 1610.5–2). Protests must be filed with the National BLM Director at the above address. All protests must be written and must be postmarked on or before November 21, 1994 and shall contain the following information:

(1) The name, mailing address, telephone number, and interest of the person filing the protest.

(2) A statement of the issue or issues being protested.

(3) A statement of the part or parts of the document being protested.

(4) A copy of all documents addressing the issue or issues previously submitted during the planning process by the protesting party, or an indication of the date the issue or issues were discussed for the record.

(5) A concise statement explaining precisely why the Bureau of Land Management Nevada State Director's decision is wrong.

Upon resolution of any protests, an Approved Plan and Record of Decision will be issued. The Approved Plan/ROD will be mailed to all individuals who participated in this planning process and all other interested publics upon their request.

Dated: October 14, 1994.

Ronald B. Wenker,

Acting State Director, Nevada.

[FR Doc. 94–26245 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Reclamation

Central Valley Project Improvement Act, Criteria for Evaluating Water Conservation Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of draft decision of evaluation of water conservation plans.

SUMMARY: To meet the requirements of the Central Valley Project Improvement Act (CVPIA), the Bureau of Reclamation (Reclamation) developed and published the Criteria for Evaluating Water Conservation Plans (Criteria) dated April 30, 1993. Using this Criteria, Reclamation evaluated the adequacy of all water conservation plans developed by project contractors, including those required by the Reclamation Reform Act of 1982. The Criteria was developed and the plans evaluated for the purpose of promoting the most efficient water use reasonably achievable by Central Valley Project (CVP) contractors. Reclamation made a commitment (stated within the Criteria) to publish a notice of its draft determination on the adequacy of each CVP contractor's water conservation plan in the **Federal Register** and to allow the public a minimum of 30 days to comment on its preliminary determinations. This program is on-going; an updated list will be published to recognize districts as plans are revised to meet the Criteria.

DATES: All public comments must be received by Reclamation by November 23, 1994.

ADDRESSES: Please mail comments to the address provided below.

FOR FURTHER INFORMATION CONTACT: Betsy Reifsnider, Bureau of Reclamation, 2800 Cottage Way, MP–402, Sacramento, CA 95825. To be placed on a mailing list for any subsequent information, please write Betsy Reifsnider or telephone at (916) 978–5038.

SUPPLEMENTARY INFORMATION: Under provisions of Section 3405(e) of the CVPIA (Title 34 of Public Law 102–575), "The Secretary [of the Interior] shall establish and administer an office on Central Valley Project water conservation best management practices that shall * * * develop criteria for evaluating the adequacy of all water conservation plans developed by project

contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982." Also, according to Section 3405(e)(1), these criteria will be developed "* * * with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices."

The Criteria states that all parties (districts) that contract with Reclamation for water supplies (municipal and industrial contracts greater than 2,000 acre feet and agricultural contracts over 2,000 irrigable acres) will prepare water conservation plans which will be evaluated by Reclamation based on the following required information:

1. Coordinate with other agencies and the public;

2. Describe the district;

3. Inventory water resources;

4. Review the past water conservation plan and activities;

5. Identify best management practices to be implemented;

6. Develop schedules, budgets and projected results;

7. Review, evaluate, and adopt the water conservation plan; and

8. Implement, monitor and update the water conservation plan.

The CVP contractors listed below have developed water conservation plans which Reclamation has evaluated and preliminarily determined meet the requirements of the Criteria.

- Broadview Water District
- Contra Costa Water District
- El Dorado Irrigation District
- Patterson Water District
- City of Redding

Public comment on Reclamation's preliminary (i.e., draft) determinations at this time is invited. Copies of the plans listed above will be available for review at Reclamation's Mid Pacific (MP) Region Office and MP's area offices. If you wish to review a copy of the plans, please contact Ms. Reifsnider to find the office nearest you.

Dated: October 14, 1994.

Franklin E. Dimick,

Assistant Regional Director.

[FR Doc. 94–26244 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–94–M

National Park Service

Agenda for the November 17, 1994 Meeting of the Advisory Commission for the San Francisco Maritime National Historical Park; Public Meeting, Fort Mason, Building F (Firehouse), 9:00 am–12:15 pm

9:00 am
Welcome—William G. Thomas, Superintendent
Opening Remarks—Patrick Flanagan, Chairman
Old Business
Approval of Minutes
9:15 am
Update—Museum Accreditation
San Francisco Maritime National Historical Park
Marc Hayman—Chief, Interpretation and Resource Management
9:30 am
Update—General Management Plan
William G. Thomas, Superintendent
10:00 am
Discussion—Organization Chart, San Francisco Maritime National Historical Park
William G. Thomas, Superintendent
10:30 am—Break
10:45 am
Report—Response from the Secretary of Interior regarding letter on "Condition of the Park"
Patrick Flanagan, Chairman
11:15 am
Discussion—Effects on the Park of the proposal to streamline/restructure the National Park Service
William G. Thomas, Superintendent
11:30 am
Public Comments and Questions
11:45 am
Election of Officers for 1995
12:00 pm
Agenda items/date for next meeting
12:15 pm—Adjournment

Dated: October 17, 1994.

Patricia L. Neubacher,

Regional Director, Western Region.

[FR Doc. 94–26320 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–70–P

Sudbury, Assabet and Concord Rivers Wild and Scenic Study Massachusetts Sudbury, Assabet and Concord Rivers Study Committee; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1 § 10), that there will be a meeting of the Sudbury, Assabet and Concord Rivers Study Committee on Wednesday, November 9, 1994.

The Committee was established pursuant to Public Law 101–628. The purpose of the Committee is to consult with the Secretary of the Interior and to advise the Secretary in conducting the study of the Sudbury, Assabet and Concord River segments specified in Section 5 (a) (110) of the Wild and Scenic Rivers Act. The Committee shall also advise the Secretary concerning management alternatives, should some or all of the river segments studied be found eligible for inclusion in the National Wild and Scenic Rivers System.

The meeting will be held at 7:30 p.m., Wednesday, November 9, 1994, at the Headquarters, Fire Station, Loring Drive, Framingham, MA. Directions: Loring Drive is in southeast Framingham. From the intersection of Rtes. 126 and 135 (Concord St. and Central St.) near the Framingham train station , turn south on 126 and immediately bear left onto Irving St. At second set of lights, bear right onto Loring Dr. The Fire Station is the large building ahead on the left.

The agenda is as follows:

1. Welcome and introductions, approval of minutes from 10/06/94 meeting.
2. Brief questions and comments from public.
3. Reports.
A. Water Group: Water quality and quantity policy recommendations for Management Plan.
B. Town Rep Group: Outreach strategies.
4. Management Plan: Discussion.
5. Issues of local concern.
6. Opportunity for public questions and comments.
7. Other Business—Next meeting dates and locations.
8. Adjournment.

Interested persons may make oral/written presentations to the Committee during the business meeting or file written statements. Further information concerning the meeting may be obtained from Cassie Thomas, Planner, National Park Service, 15 State Street, Boston, MA 02109 or call (617) 223–5014.

Dated: October 14, 1994.

Chrysandra L. Walter,

Acting Regional Director.

[FR Doc. 94–26319 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–70–P

Notice of Intent to Issue a Request for Proposal for the Leasing Opportunity of the Main Post of the Presidio of San Francisco

The Presidio of San Francisco, one of Americas great cultural and natural resources, will soon be transformed from a military post into a national park. With vistas overlooking the Pacific Ocean and San Francisco Bay, the Presidio will become a global resource, and home to organizations dedicated to addressing the worlds most critical social and cultural challenges.

Included in this history-making transition is the *Presidio Main Post*—the

heart of the Presidio. Its buildings are located in magnificent settings and include The Montgomery Street Barracks Buildings with their highly distinctive red brick exteriors and a cluster of handsome wood-sided structures near the future transit hub. The Barracks buildings being offered for lease (101, 102) contain 42,230 gross square feet of potential office space. The wooden historic structures together offer just over 51,020 gross square feet of potential office space.

The National Park Service is issuing a REQUEST FOR PROPOSALS (RFP) from non-profit organizations, joint-ventures, and master lessee/subtenant arrangements. This Request for Proposal will be the initial process whereby organizations wishing to lease Main Post buildings will be reviewed in regards to their capabilities and experience. From the results of the Request for Proposal the National Park Service will enter into negotiations with the most qualified respondent. If you wish to receive a copy of the Request for Proposal containing a description of the facility, the current and future operation, and an application, please send your name and address to: National Park Service, Office of the General Manager, Attention: Main Post RFP, Main Post, Building 102, P.O. Box 29022, Presidio of San Francisco, CA 94129–0022; or call: (415) 556–1388.

Please distribute this notice to others who may have an interest in this project.

Date: October 17, 1994.

Patricia L. Neubacher,

Regional Director, Western Region.

[FR Doc. 94–26315 Filed 10–21–94; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

Availability of Environmental Assessments

Pursuant to 42 U.S.C. 4332, the Commission has prepared and made available environmental assessments for the proceedings listed below. Dates environmental assessments are available are listed below for each individual proceeding.

To obtain copies of these environmental assessments contact Ms. Tawanna Glover-Sanders or Ms. Judith Groves, Interstate Commerce Commission, Section of Environmental Analysis, Room 3219, Washington, DC 20423, (202) 927–6203 or (202) 927–6246.

Comments on the following assessment are due 15 days after the date of availability:

AB–52 (SUB-NO. 77X), THE ATCHISON, TOPEKA, AND SANTA FE RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN SAN BERNADINO, CA. EA available 10/13/94.

AB424 (SUB-NO. 1X), GREENBELT CORPORATION—ABANDONMENT—IN TILLMAN COUNTY, OKLAHOMA. EA available 10/13/94.

Comments on the following assessment are due 30 days after the date of availability:

NONE.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26269 Filed 10–21–94; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32579 (Sub-No. 4)]

Burlington Northern Railroad Company—Trackage Rights Exemption—Soo Line Railroad Company

Soo Line Railroad Company d/b/a CP Rail System (Soo) has agreed to grant non-exclusive local trackage rights to Burlington Northern Railroad Company (BN) between Clinton and Davenport, IA.[1] The trackage is between CP milepost 157.70 at Fourth Street in Clinton and approximately DRI milepost 36.65 at East Wye Switch in Davenport, a distance of approximately 35.8 miles (the Clinton-Davenport Line).[2] BN also will acquire the right to utilize the wye adjacent to DRI milepost 36.65, the right to access the designated Soo interchange track, and the right to access the connection track to the Iowa Interstate Railroad Ltd. (IAIS), at approximately CP milepost 194.00.[3]

The trackage rights are contingent upon Soo's prior succession to DRI's ownership and Soo's prior acquisition of BN's ownership in the Clinton-Davenport Line pursuant to the related application in Finance Docket No. 32579 and (Sub-Nos. 1, 2, and 3).

Although this exemption will become effective prior to the Commission's approval of the related application, consummation of this transaction and all simultaneously filed transactions will occur upon the effective date of the Commission's decision in Finance Docket No. 32579 and (Sub-Nos. 1, 2, and 3).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Michael E. Roper, 3800 Continental Plaza, 777 Main St., Fort Worth, TX 76102–5384.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: October 13, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26267 Filed 10–21–94; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32579 (Sub-No. 5)]

Soo Line Railroad Company—Trackage Rights Exemption—Burlington Northern Railroad Company

Burlington Northern Railroad Company (BN) has agreed to grant non-exclusive local trackage rights to Soo Line Railroad Company d/b/a CP Rail System (Soo) between Davenport, IA

[1] These trackage rights are part of a series of related transactions among Soo, BN, and their affiliate the Davenport, Rock Island and North Western Railway Company (DRI). These transactions include the elimination of DRI as a separate switching carrier and transfer of its functions to its parent companies Soo and BN. A related consolidated application has been filed in *Canadian Pacific Limited, Canadian Pacific (U.S.) Holdings Inc., Soo Line Corporation and Soo Line Railroad Company—Control—Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579, *Burlington Northern Railroad Company—Acquisition—Certain Lines of Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579 (Sub-No. 1), *Burlington Northern Railroad Company—Acquisition—Certain Lines of Soo Line Railroad Company*, Finance Docket No. 32579 (Sub-No. 2), and *Soo Line Railroad Company—Acquisition—Certain Lines of Burlington Northern Railroad Company*, Finance Docket No. 32579 (Sub-No. 3). Also, two related notices of exemption have been filed in *Soo Line Railroad Company—Trackage Rights Exemption—Burlington Northern Railroad Company*, Finance Docket No. 32579 (Sub-No. 5), and *Soo Line Railroad Company—Merger Exemption—Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579 (Sub-No. 6).

[2] A portion of the Clinton-Davenport Line is owned by DRI, a portion by Soo, and a portion jointly by BN and Soo.

[3] BN states that access to the connection track to IAIS is for the sole purpose of facilitating its operation over the tracks of IAIS between that point and its trackage in Illinois as an alternate to its existing route via the Crescent Drawbridge in the event the bridge becomes inoperable or is retired or abandoned.

and Albany, IL, and between the DRI Junction in East Moline, IL and Silvis, IL.[1] The trackage is between: (1) approximately DRI milepost 36.65 at East Wye Switch in Davenport and the end of track at CP milepost 26.60 at Albany, a distance of approximately 34 miles (the Davenport-Albany Line); and (2) DRI milepost 45.06 at the DRI Junction in East Moline and BN milepost 244.42 at Silvis, a distance of approximately 1.3 miles (the East Moline-Silvis Line).[2]

Although this exemption will become effective prior to the Commission's approval of the related application, consummation of this transaction and all simultaneously filed transactions will occur upon the effective date of the Commission's decision in Finance Docket No. 32579 and (Sub-Nos. 1, 2, and 3).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: William C. Sippel, Two Prudential Plaza, 45th Floor, 180 North Stetson Ave., Chicago, IL 60601.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: October 13, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26266 Filed 10–21–94; 8:45 am]

BILLING CODE 7035–01–P

[1] These trackage rights are part of a series of related transactions among Soo, BN, and their affiliate the Davenport, Rock Island and North Western Railway Company (DRI). These transactions include the elimination of DRI as a separate switching carrier and transfer of its functions to its parent companies Soo and BN. A related consolidated application has been filed in *Canadian Pacific Limited, Canadian Pacific (U.S.) Holdings Inc., Soo Line Corporation and Soo Line Railroad Company—Control—Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579, *Burlington Northern Railroad Company—Acquisition—Certain Lines of Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579 (Sub-No. 1), *Burlington Northern Railroad Company—Acquisition—Certain Lines of Soo Line Railroad Company*, Finance Docket No. 32579 (Sub-No. 2), and *Soo Line Railroad Company—Acquisition—Certain Lines of Burlington Northern Railroad Company*, Finance Docket No. 32579 (Sub-No. 3). Also, two related notices of exemption have been filed in *Burlington Northern Railroad Company—Trackage Rights Exemption—Soo Line Railroad Company*, Finance Docket No. 32579 (Sub-No. 4), and *Soo Line Railroad Company—Merger Exemption—Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579 (Sub-No. 6).

[2] Portions of the Davenport-Albany Line between Davenport and Rock Island and at East Moline, including the Crescent Drawbridge over the Mississippi River, are currently owned by DRI. The segment of the Line between CP milepost 52.00 (DRI milepost 45.55) at East Moline and milepost 26.60 at Albany is currently owned by Soo.

[Finance Docket No. 32579 (Sub-No. 6)][1]

Soo Line Railroad Company—Merger Exemption—Davenport, Rock Island and North Western Railway Company

Soo Line Railroad Company d/b/a CP Rail System (Soo) and the Davenport, Rock Island and North Western Railway Company (DRI), filed a notice of exemption to merge DRI into Soo, with Soo as the successor corporation. DRI is jointly owned by Soo and Burlington Northern Railroad Company (BN). Under the plan of merger, DRI will be eliminated as a separate switching carrier and its functions will be transferred to Soo and BN. The merger is contingent upon Soo's prior acquisition of control of DRI, which is pending under Finance Docket No. 32579.

Although this exemption will become effective prior to the Commission's approval of the consolidated application, consummation of this transaction and all simultaneously filed transactions will occur upon the effective date of the Commission's decision in Finance Docket No. 32579 and (Sub-Nos. 1, 2, and 3).

The transaction involves the merger of companies within a corporate family and is specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). The merger of DRI into Soo, will occur only after DRI becomes a wholly owned subsidiary of Soo. The merger will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

To ensure that all employees who may be affected by the transaction are given protection under 49 U.S.C. 10505(g)(2) and 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: William C. Sippel, Two Prudential Plaza, 45th Floor, 180 North Stetson Ave., Chicago, IL 60601.

Decided: October 13, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26265 Filed 10–21–94; 8:45 am]

BILLING CODE 7035–01–P

[1] A related consolidated application has been filed in *Canadian Pacific Limited, Canadian Pacific (U.S.) Holdings Inc., Soo Line Corporation and Soo Line Railroad Company—Control—Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579, *Burlington Northern Railroad Company—Acquisition—Certain Lines of Davenport, Rock Island and North Western Railway Company*, Finance Docket No. 32579 (Sub-No. 1), *Burlington Northern Railroad Company—Acquisition—Certain Lines of Soo Line Railroad Company*, Finance Docket No. 32579 (Sub-No. 2), and *Soo Line Railroad Company—Acquisition—Certain Lines of Burlington Northern Railroad Company*, Finance Docket No. 32579 (Sub-No. 3). Also, two related notices of exemption have been filed in *Burlington Northern Railroad Company—Trackage Rights Exemption—Soo Line Railroad Company*, Finance Docket No. 32579 (Sub-No. 4), and *Soo Line Railroad Company—Trackage Rights Exemption—Burlington Northern Railroad Company*, Finance Docket No. 32579 (Sub-No. 5).

[Docket No. AB–419X]

New Hampshire Northcoast Corporation—Abandonment Exemption—in Strafford County, NH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by New Hampshire Northcoast Corporation of approximately 7.28 miles of rail line, known as the Farmington Branch, between milepost D–9.72, in Rochester, and the end of the track at milepost D–17.00, in Farmington, Strafford County, NH, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on November 8, 1994. Formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[1] requests for interim trail use/rail banking under 16 U.S.C. 1247(d), requests for a public use condition in conformity with 49 CFR 1152.28(a)(2), and petitions to reopen must be filed by

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

November 3, 1994. Petitions to stay must be filed by October 31, 1994.

ADDRESSES: Send pleadings, referring to Docket No. AB–419X, to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, Washington, D.C. 20423; and (2) Petitioner's representatives: Kevin M. Sheys and Thomas J. Litwiler, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's Decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, 1201 Constitution Avenue, Washington, D.C. 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services at (202) 927–5721.]

Decided: October 3, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, and Commissioners Simmons and Morgan. Vice Chairman Phillips did not participate in the disposition of this proceeding.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26264 Filed 10–21–94; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–290 (Sub-No. 148X)]

Norfolk and Western Railway Company—Abandonment Exemption—in the City of Salem and Roanoke County, VA

Norfolk Western Railway Company [1] (NW) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.58 miles of rail line from milepost S–2.8 at Lakeside in the city of Salem, VA, to milepost 4.38 at Hanging Rock, Roanoke County, VA.

Norfolk has certified that: (1) no local or overhead traffic has moved over the line for at least 2 years; (2) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (3) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 23, 1994, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 [4] must be filed by November 3, 1994. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 14, 1994, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio*.

Norfolk has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 28, 1994. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 19, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Acting Secretary.

[FR Doc. 94–26268 Filed 10–21–94; 8:45 am]

BILLING CODE 7035–01–P

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[1] NW is a subsidiary of Norfolk Southern Railway Company.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[3] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. § 9622(d), notice is hereby given that on October 12, 1994, a proposed consent decree in *United States v. DiBiase Salem Realty Trust, et. al.*, Civil Action No. 91–11028M, was lodged with the United States District Court for the District of Massachusetts. The proposed consent decree requires Ugo DiBiase and DiBiase Salem Realty Trust to implement remedial measures related to the landfill and debris piles at the Salem Acres Superfund Site, located in Salem, Massachusetts, as set forth in the March 25, 1993 Record of Decision, to reimburse the United States for $80,329 in past response costs incurred in connection with the Site, and to pay the United States' future oversight costs to be incurred in connection with the remediation of the landfill and debris piles. The remedy consists of excavating and disposing of the landfill and debris piles at a local permitted landfill.

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, Washington, D.C. 20530, and should refer to *United States v. DiBiase Salem Realty Trust, et al.*, D.J. Ref. 90–11–3–744.

The proposed consent decree may be examined at the Office of the United States Attorney, District of

Massachusetts, J.W. McCormack Post Office and Courthouse, Boston, Massachusetts, 02109, and at Region I, Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203 and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $36.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–26293 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Resource Construction and Recovery Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Eastman Kodak Company*, Civ. No. 94–CV–6503T, was lodged on October 7, 1994, in the United States District Court for the Western District of New York. The consent decree settles an action commenced in a complaint filed October 7, 1994, under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, arising out of operations at the Kodak Park facility in Rochester, New York, the principal manufacturing facility of the Eastman Kodak Company. The Eastman Kodak Company is one of the 25 largest companies in the United States, and is engaged primarily in developing, manufacturing and marketing imaging products, information systems, and health and chemical products.

The primary allegations in the Complaint concern Kodak's failure to make hazardous waste determinations, the deteriorated condition of 31 miles of industrial sewers at Kodak Park, and an unpermitted wastewater sludge incinerator. The Complaint also includes claims concerning an illegal waste pile, violation of notice requirements regarding treatment standards for hazardous wastes, violations of the requirements of Kodak Park's RCRA Permit, non-disclosure of certain hazardous waste management units, failure to properly close several underground storage tanks, and one violation of Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9604(e), for failure to timely respond to an information request letter.

Under the Consent Decree, Kodak will pay a civil penalty to the United States of $5 million. Up to $3 million in additional civil penalties may be offset by Kodak through the implementation of six Supplemental Environmental Projects ("SEPS") with a present value of $12 million. These SEPs are pollution prevention projects that go above and beyond the requirements of the law, and will result in significant hazardous waste reduction at Kodak Park.

The Consent Decree also provides for substantial injunctive relief to bring Kodak Park into compliance with the environmental law. Under the agreement, Kodak will inspect, repair and upgrade the estimated 31 miles of aging industrial sewers at the site, upgrade and obtain a permit for a wastewater sludge incinerator, and take steps to properly characterize hazardous wastes generated at the site and to reduce their emission to the environment.

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 for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Eastman Kodak Company*, DOJ Ref. #90–7–1–646.

The proposed consent decree may be examined at the office of the United States Attorney, Federal Center, 138 Delaware Avenue, Buffalo, New York; the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent degree 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 enclose a check made payable to the Consent Decree Library in the amount of $22.50 (25 cents per page reproduction costs for the Consent Decree and Attachments A, B, and C, thereto, but not including technical exhibits).

Bruce S. Gelber,

Acing Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–26294 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act and the Rivers and Harbors Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a Consent Decree in *Golden Gate Audubon Society, Inc., et al.* v. *United States Army Corps of Engrs. & City of Oakland, et al.*, Civil No. C–87–6063–TEH (N.D. Cal.), and consolidated action *People of the State of California, et al.* v. *Togo West & City of Oakland, et al.*, Civil No. C–86–5817–RHS, was lodged with the United States District Court for the Northern District of California on September 27, 1994.

The proposed Consent Decree concerns alleged violations of section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), and section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. § 403, as a result of unpermitted discharges of dredged and fill material into wetlands and other waters of the United States and the unauthorized dredging of a channel. The Defendants, Port of Oakland, the Board of Port Commissioners of the City of Oakland, and the City of Oakland, acting by and through that Board (herein "Port Defendants"), allegedly filled approximately 34 acres of jurisdictional wetlands and other waters of the United States, including seasonal ponds, at the Port of Oakland Distribution Center in the City of Oakland, Alameda County, California during the period 1972–1986. The Port Defendants also allegedly dredged an unauthorized channel in 1979 through a portion of the Port of Oakland Distribution Center property, all of which is owned by the Port Defendants, in violation of section 10 of the Rivers and Harbors Act of 1899. Additionally, the Port Defendants allegedly graded, scraped and/or filled approximately 26 acres of Wetlands and other waters of the United States at the Air Cargo Site, which is located at the South Field of the Metropolitan Oakland International Airport in the City of Oakland. A permit authorizing that work was issued by the Army Corps of Engineers in 1986, but the permit was subsequently vacated by the United States District Court for the Northern District of California and, therefore, the work was unauthorized.

The proposed Consent Decree would require the Port Defendants to provide substantial mitigation in accordance with a Corps-approved mitigation/restoration plan. The mitigation project would include the restoration and/or enhancement of at least 68 acres within a 71-acre Mitigation Project Site located at the Port of Oakland Distribution Center and provides for the creation and enhancement of tidal wetlands, seasonal wetlands, seasonal ponds and other habitat features. The Port Defendants would be required to make available $2.5 million to finance the mitigation and post-mitigation activities, to include a 5-year monitoring program. Upon completion of the mitigation project, the Port Defendants would be required to transfer title to the 71-acre parcel to the East Bay Regional Park District ("EBRPD"), a state chartered regional agency, to assure that no future development occurs on the Mitigation Project Site. The Consent Decree would also require the Port Defendants to apply for a permit under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act in order to construct a new parking area on approximately .1 acre adjacent to the Mitigation Project Site and to deposit 150,000–200,000 cubic yards of excess fill material removed from the Site on an undeveloped area of the Distribution Center property. The new parking area is necessary to replace a part of the existing parking area which would be destroyed as part of the proposed mitigation project. Approximately 2.5 acres of existing wetlands in undeveloped areas of the Distribution Center Site would be filled under the requested permit to allow for these activities. Additionally, the previously unauthorized fill material at both sites would be retained under the authority of Nationwide Permit 32 and the Consent Decree. The proposed Consent Decree would also require the payment of a $5,000 civil penalty to the United States.

The Department of Justice will receive written comments relating to the proposed Consent Decree for a period of 30 days from the date of publication of this notice. Comments should be addressed to Karen Egbert, Esquire, U.S. Department of Justice, Environmental Defense Section, P.O. Box 23986, Washington, D.C. 20026–3986 and should refer to *Golden Gate Audubon Society, Inc., et al. v. United States Army Corps of Engrs. & City of Oakland, et al.*, Civil No. C–87–6063–TEH (N.D. Cal.), and consolidated action *People of the State of California, et al. v. Togo West & City of Oakland, et al.*, Civil No. C–86–5817–RHS, and should also make reference to DJ# 90–5–1–1–3048.

The Consent Decree, with attachments, may be examined at the Clerk's Office, United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 94–26296 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Kalama Specialty Chemicals Inc. et al.*, Civil Action No. 9:94–2758–19, was lodged on October 13, 1994, with the United States District Court for the District of South Carolina. This agreement resolves a judicial enforcement action brought by the United States against the defendants pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99–499, 42 U.S.C. §§ 9606 and 9607, for the cleanup of the KSCI Superfund Site in Beaufort County, South Carolina, and for the recovery of response costs incurred and to be incurred by the United States in connection with the Site.

The consent decree requires the settling defendants to pay 100 percent of the past and future response costs which the United States has incurred and will incur at the Site. The settling defendants have also agreed under the decree to perform the final remedy for the Site which EPA set forth in its Record of Decision dated September 28, 1993, and which provides for excavation, treatment, and on-site disposal of contaminated soils, and extraction and treatment of contaminated groundwater across the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Kalama Specialty Chemicals Inc. et al.*, DOJ Ref. #90–11–2–915.

The proposed consent decree may be examined at the Office of the United States Attorney, 324 West Market Street, Greensboro, North Carolina 27402; the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $50.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 94–26297 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on October 12, 1994, a proposed Consent Decree in *United States v. OK Tool Co., Inc., et al.*, Civil No. 94–518–B, was lodged with the United States District Court for the District of New Hampshire, resolving the defendants' liability under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, and the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, for costs incurred and to be incurred in responding to releases or threatened releases into the environment of hazardous substances at the Savage Municipal Water Supply Well Superfund Site (the "Savage Site") located in Milford, New Hampshire.

Under the terms of the Consent Decree, OK Tool Co., Inc., OK Tool Holdings, Inc., Crafts Precision Industries, Inc., Corinthian Properties, Inc., John C. Pappas, Jr., Williams & Hussey Machine Co., Inc., the Estate of Thurston V. Williams, Forrest Hussey, Roger T. Williams, Alan L. Foster, and other former shareholders of the OK Tool Co. will pay a collective total of approximately $3 million to the United States and the State of New Hampshire ("the State") for past and future CERCLA response actions that have been and will be undertaken by the U.S. Environmental Protection Agency

("EPA") and the State for the Savage Site. This settlement is based primarily on the settling defendants' ability to pay.

The United States and the State have incurred and expect to incur in the future a total of approximately $10 million for response actions at the Savage Well site, primarily for future remedial action involving extraction and treatment of contaminated groundwater at the "OK Tool Source Area" of the Savage Well site. The remedial action for the remainder of the site is being performed by other potentially responsible parties pursuant to a consent decree entered in *United States and State of New Hampshire* v. *Conductron Corp. et al.* (No. 94–174, D.N.H., June 27, 1994).

The U.S. 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. 20044–7611, and should refer to *United States* v. *OK Tool Co., Inc., et al.* D.J. Ref. 90–11–3–970A.

The proposed Consent Decree may be examined at the Region 1 Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts. Copies of the Consent Decree also may be examined at the Environmental Enforcement Section Document Center, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree (excluding Appendices) may be obtained in person or by mail from the Document Center. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $23.50 (25 cents per page reproduction cost) for the Consent Decree and Appendices, made payable to Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environment and Natural Resources Division.

[FR Doc. 94–26295 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative; Research and Production Act of 1993—Dehydration System Evaluation Project

Notice is hereby given that, on August 8, 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"), the participants in the Dehydration System Evaluation Project (the "Project") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Project 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 and the general area of planned activity are: Chevron Petroleum Technology Company, La Habra, CA, and Vortoil Separation Systems, Ltd., Gloucester, U.K. The nature of the research program performed in accordance with this Project is to evaluate water continuous separation systems that have less than 30% oil; oil continuous separation systems that have less than 40% water; and phase inversion separation systems that have 30% to 60% oil. The objectives are to (1) understand the process capabilities and limitations of liquid/liquid hydrocyclones in oil field production operations over the full range of oil/water ratios; and (2) to determine the optimum hydrocyclone design for separation of oil continuous mixtures and to develop a new liquid/liquid hydrocyclone utilizing the optimum design.

Information about participating in this Project may be obtained by contacting William Bowers, Vortoil Separation Systems U.S.A. Houston, TX.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–26290 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Affordable Composites for Propulsion Cooperative Arrangement

Notice is hereby given that, on August 3, 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"), United Technologies Corporation 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 a cooperative arrangement known as the "Coordinated Research Agreement for Development of Affordable Composites for Propulsion" (the "ACP"). 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 United Technologies Corporation, Hartford, CT; The Boeing Company, Seattle, WA; Vought Aircraft Company, Dallas, TX; E.I. du Pont de Nemours & Company, Wilmington, DE; Hercules Incorporated, Wilmington, DE; and Dow-United Technologies Composite Products, Inc., Wallingford, CT. The purpose of the ACP is to pursue a coordinated research and development effort leading to development of affordable manufacturing composite processes for advanced aircraft engine applications, while providing a dual-use technology base for future military applications.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–26289 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 United Technologies Research Center

Notice is hereby given that, on September 1, 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"), United Technologies Research Center ("UTRC"), an unincorporated operating unit of United Technologies Corporation ("UTC"), filed a written notification on behalf of UTC, Advanced Healthcare Systems, Inc., an affiliate of Johnson & Johnson ("Advanced Healthcare Systems"); AMP Incorporated ("AMP"); Hasbro Incorporated ("Hasbro"); Minnesota Mining and Manufacturing Company ("3M"); the Massachusetts Institute of Technology ("MIT"); Extrude Home Corporation ("Extrude Home"); and Soligen Technologies, Inc. ("Soligen") simultaneously with the Attorney General and the Federal Trade Commission disclosing: (1) The identities of the parties to a joint research and development venture; and (2) the nature and objective of the venture. The notification was 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 UTC, acting through UTRC, East Hartford, CT; Advanced Healthcare Systems, Cincinnati, OH; AMP, Harrisburg, PA; Hasbro, Pawtucket, RI; 3M, St. Paul, MN; M.I.T.,

Cambridge, MA; Extrude Home, Irwin, PA; and Soligen, Northridge, CA.

UTC, Advanced Healthcare Systems, AMP, Hasbro, 3M, M.I.T., Extrude Home and Soligen, entered into a Collaboration Agreement effective August 1, 1994, to engage in cooperative research and development in the area of low cost, high performance rapid plastics injection mold tooling fabrication utilizing three dimensional (3D) printing technology, including without limitation the experimental building, finishing, assembly and testing of molds using 3D printing methods, and analysis of prototype performance data in comparison to existing tooling fabrication methods.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–26291 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Appliance Industry—Government CFC Replacement Consortium, Inc.

Notice is hereby given that, on August 19, 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"), the Appliance Industry-Government CFC Replacement Consortium, Inc. ("Corporation"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its participants' status. The written notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following corporation has terminated its participation in the program as of August 19, 1994: 3M Corporation.

No other changes have been made in either the membership or planned activity of the Corporation.

On September 19, 1989, the Corporation 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 November 1, 1989, 54 FR 46136. The last notification was filed with the Department on July 1, 1993. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 17, 1993, 58 FR 43655.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–26292 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–01–M

Federal Bureau of Investigation

National Crime Information Center (NCIC) Advisory Policy Board

The National Crime Information Center (NCIC) Advisory Policy Board will meet on December 14–15, 1994, from 9 a.m. until 5 p.m., at the Hyatt Regency Atlanta Hotel, 265 Peachtree Street N.E., Atlanta, Georgia, telephone 404–577–1234, to formulate recommendations to the Director, Federal Bureau of Investigation (FBI) on the security, policy, and operation of NCIC and related systems.

The topics to be discussed will include the progress of the NCIC 2000, the Integrated Automated Fingerprint Identification System (IAFIS) projects, status of the Brady Handgun Violence Prevention Act, and other topics related to the management of the FBI's criminal history information systems.

The meeting will be open to the public on a fist-come, first-seated basis. Any member of the public may file a written statement concerning the NCIC or related matters with the Board, before or after. Anyone wishing to address this session of the meeting should notify the Designated Federal Employee, 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 of the Board.

Inquiries may be addressed to the Designated Federal Employee, Mr. Demery R. Bishop, Section Chief, Programs Development Section, CJIS Division, FBI, 10th and Pennsylvania Avenue, Northwest, Washington, DC 20535, telephone 202–324–5084.

Dated: October 14, 1994.

Demery R. Bishop,

Section Chief, Programs Development Section, Federal Bureau of Investigation, Designated Federal Employee.

[FR Doc. 94–26303 Filed 10–21–94; 8:45 am]

BILLING CODE 4410–02–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94–081]

National Environmental Policy Act; Mars Pathfinder Mission

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Finding of No Significant Impact.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and regulations (14 CFR Part 1216 Subpart 1216.3), NASA has made a finding of no significant impact (FONSI) with respect to the proposed Mars Pathfinder mission, which would involve a flight to and landing on Mars. The baseline mission calls for the Mars Pathfinder spacecraft to be launched aboard a Delta II 7925 from Cape Canaveral Air Station (CCAS), Florida, in December 1996.

DATES: Comments on the FONSI must be provided in writing to NASA on or before November 23, 1994.

ADDRESSES: Comments should be addressed to Mark P. Saunders, NASA Headquarters, Code SL, 300 E Street SW, Washington, DC 20546. The environmental assessment (EA) prepared for the Mars Pathfinder mission which supports this FONSI may be reviewed at:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street SW, Washington, DC 20546.

(b) Spaceport U.S.A., Room 2001, John F. Kennedy Space Center, FL 32899.

In addition, the EA may be examined at the following NASA locations by contacting the pertinent Freedom of Information Act Office:

(c) NASA, Ames Research Center, Moffett Field, CA 94035 (415–604–4191).

(d) NASA, Dryden Flight Research Center, Edwards, CA 93523 (805–258–3047).

(e) NASA, Goddard Space Flight Center, Greenbelt, MD 20771 (301–286–0730).

(f) Jet Propulsion Laboratory, NASA Resident Office, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

(g) NASA, Johnson Space Center, Houston, TX 77058 (713–483–8612).

(h) NASA, Langley Research Center, Hampton, VA 23665 (804–864–6125).

(i) NASA, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2902).

(j) NASA, Marshall Space Flight Center, AL 35812 (205–544–4523).

(k) NASA, Stennis Space Center, MS 39529 (601–688–2164).

A limited number of copies of the EA are available by contacting Mark P. Saunders, at the address or telephone number indicated herein.

FOR FURTHER INFORMATION CONTACT: Mark P. Saunders, 202–358–0299.

SUPPLEMENTARY INFORMATION: NASA has reviewed the EA prepared for the Mars Pathfinder mission and has determined that it represents an accurate and adequate analysis of the scope and level of associated environmental impacts. The EA is incorporated by reference in this FONSI.

The planned Mars Pathfinder mission would deliver a very small rover vehicle (hereinafter "Rover") inside a landing craft (hereinafter "Lander") to the surface of Mars' northern hemisphere in July 1997 to demonstrate enabling systems and technologies for delivering small science payloads to that planet. The proposed action calls for using a Delta II 7925 launch vehicle to inject the Mars Pathfinder spacecraft into a direct Earth-Mars trajectory in December 1966. The Lander would enter the martian atmosphere and descend to the surface using an aeroshell, parachute, and solid fuel rockets to slow the descent. An airbag system would soften the final landing shock. The Rover would then be deployed to the surface from the Lander. The Lander would serve as a telemetry relay for the Rover to receive commands from and return data to Earth. The Rover design would include three Lightweight Radioisotope Heater Units (LWRHU's) as an additional heat source to keep sensitive electronic components warm enough to operate. Each LWRHU would contain 2.7 grams (about 0.1 ounce) of plutonium-238 dioxide. The Rover would carry an alpha/proton/x-ray spectrometer (APXS) which uses a radioactive alpha particle source of curium-244 (approximately 2.78 gigabequerels or 75 millicuries). The primary Lander mission would last 30 days, and the primary Rover mission 7 days.

Scientific objectives of the Mars Pathfinder mission include imaging of the martian surface, atmospheric structure and meteorology data collection, and investigation of the martian surface composition at multiple sites in the vicinity of the Lander. The mission also will include demonstrations of enabling technologies and technical approaches for possible future Mars missions. These demonstrations will include a simplified cruise approach to transfer the Lander from Earth to Mars with a direct atmospheric entry from transfer orbit, extended (minimum 30 days) surface operations using only solar and battery power to operate all Lander systems, and direct-link radio communication between the Lander and Earth. Traversing martian terrain, the Rover would conduct microrover technology experiments and provide data on capabilities, such as wheel/soil interactions and hazard detection. the Rover also would employ its imaging equipment to allow assessment of the Lander's condition and gather scientific data on the rocks and soil.

Alternatives that were evaluated include: (1) No-action (i.e., no Mars Pathfinder mission); (2) launch vehicle options, including the Space Shuttle, Titan and Atlas configurations, foreign launch vehicles, and other Delta configurations; and (3) alternate methods of providing supplemental heat to or retaining heat in the Rover electronics enclosure. Failure to undertake the Mars Pathfinder mission would result in a lost opportunity to gain further scientific knowledge of Mars and would prevent demonstration of technologies for efficient delivery of scientific payloads to Mars. Of the launch vehicles evaluated, the Delta II 7925 most closely matches the mission's needs, is relatively low-cost, has superior reliability, and minimizes adverse environmental impacts. Because of the small volume available for insulation on the Rover, alternate heating methods (i.e., no LWRHU's) for the Rover electronics can not provide a suitable thermal environment for operation of the electronics while satisfying mission objectives.

Expected impacts to the human environment associated with the mission arise almost entirely from the launch of the Delta II 7925. Air emissions from the ground-level exhaust consist primarily of carbon monoxide, hydrochloric acid, aluminum oxide in soluble and insoluble forms, carbon dioxide, and water. Air impacts will be short-term and not substantial. Short-term water quality and noise impacts, as well as short-term effects on wetlands and plants and animals, will occur in the vicinity of the launch complex. None of these effects will be substantial. There will be no impact on threatened or endangered species or critical habitat, cultural resources, or floodplains. There were no accident scenarios and associated environments identified for the Delta II 7925 launch system that would result in the release of plutonium dioxide from the Rover LWRHU's. While accident environments could cause release of the curium used in the APXS, the amount of curium is very small, and the associated incremental health risk is negligible.

On the basis of the Mars Pathfinder EA and underlying reference documents, NASA has determined that the environmental impacts associated with this proposed mission will not individually or cumulatively have a significant effect on the quality of the human environment. NASA will take no final action prior to the expiration of the 30-day comment period.

Wesley T. Huntress, Jr.,

Associate Administrator for Space Science.

[FR Doc. 94–26270 Filed 10–21–94; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities Arts and Artifacts Indemnity Panel Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (P.L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue NW., Washington, D.C. 20506, in Room M–14, from 9:30 a.m. to 5:00 p.m., on Monday, November 14, 1994.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities for exhibitions beginning after January 1, 1995.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that these desiring more specific information contact the Advisory Committee Management Officer, David Fisher, 1100

Pennsylvania Avenue NW., Washington, D.C. 20506, or call 202/606–8322.

David Fisher,

Advisory Committee, Management Officer.

[FR Doc. 94–26216 Filed 10–21–94; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Computer and Information Science and Engineering.

Date and Time: November 3, 1994; 8:30 a.m. to 5:00 p.m.; November 4, 1994; 8:30 a.m. to 2:30 p.m.

Place: 4201 Wilson Blvd., Arlington, VA 22230, Room 375.

Type of Meeting: Open.

Contact Person: Odessa Dyson, Administrative Officer, Office of the Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1900.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities on the CISE community; to provide advice to the Assistant Director/CISE on issues related to long range planning, and to form ad hoc subcommittees to carry out needed studies and tasks.

Agenda: (1) Future Opportunities: Research Directions, (2) Infrastructure Issues, (3) Advisory Committee Activities.

Reason for Late Notice: Difficulty getting all members together on same date.

Dated: October 19, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–26262 Filed 10–21–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research (DMR).

Date and Time: November 9–10, 1994, 8:00 am to 5:00 p.m.

Place: National Science Foundation Conference Room 360, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. David L. Nelson, Program Director/Solid State Chemistry, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone (703) 306–1838.

Purpose of Meeting: To provide advice and recommendations concerning support for ONR/NSF joint interest area of Interfaces to Superconductors.

Agenda: Evaluation of proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–26263 Filed 10–21–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 3–5, 1994, in Conference Room T2B3, 11545 Rockville Pike, Rockville, Maryland. The dates for this meeting were published in the **Federal Register** on Friday, August 22, 1994.

Thursday, November 3, 1994

8:30 A.M.–8:45 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 A.M.–1:15 P.M.: BWR Core Power Stability/ATWS (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Final Safety Evaluation Report (FSER) on Emergency Procedures Guidelines to address BWR core power instabilities. Representatives of the industry will participate, as appropriate.

2:15 P.M.–3:45 P.M.: Watts Bar Progress Status (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the status of resolution of issues associated with Watts Bar. Representatives of the industry will participate, as appropriate.

4:00 P.M.–4:30 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations to ACRS comments and recommendations included in recent ACRS reports.

4:30 P.M.–5:00 P.M.: Future ACRS Activities (Open)—The Committee will discuss topics proposed for consideration during future ACRS meetings.

5:00 P.M.–6:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, November 4, 1994

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 A.M.–10:00 A.M.: Options with Regard to Revising 10 CFR Part 100, Reactor Site Criteria (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed rulemaking on reactor site criteria.

10:15 A.M.–12:00 Noon—Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

1:00 P.M.–1:30 P.M.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business and internal organizational and personnel matters relating to the ACRS staff members.

A portion of this session may be closed to discuss matters that relate solely to internal personnel rules and practices of this Advisory Committee, and matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

1:30 P.M.–2:00 P.M.: Selection of New ACRS Members (Open/Closed)—The Committee will discuss qualifications of candidates nominated for appointment to the ACRS.

A portion of this session will be closed to discuss matters the release of which would constitute a clearly unwarranted invasion of personal privacy.

2:00 P.M.–6:30 P.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

Saturday, November 5, 1994

8:30 A.M.–11:00 A.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

11:15 A.M.–12:00 Noon: Strategic Planning (Open)—The Committee will hold strategic planning discussions related to its future activities.

12:00 Noon–12:30 P.M.: New Research Needs (Open)—The Committee will discuss new research needs, if any, identified during this meeting.

12:30 P.M.–1:00 P.M.: Miscellaneous (Open)—The Committee will discuss miscellaneous matters related to the conduct of Committee activities and complete discussions of topics that were not completed during previous meetings as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were

published in the **Federal Register** on September 30, 1993 (58 FR 51118). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director, Dr. John T. Larkins, at least five days before the meeting if possible, 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 meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the ACRS Executive Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting noted above to discuss information that involves the internal personnel rules and practices of this advisory Committee per 5 U.S.C. 552b(c)(2); and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, 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 contacting the ACRS Executive Director, Dr. John T. Larkins (telephone 301–415–7361), between 7:30 A.M. and 4:15 P.M. EST.

Dated: October 18, 1994.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 94–26252 Filed 10–21–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of P.L. 87–693 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 Federal Register 10737), the three sets of rates outlined below are hereby established. These rates are for use in connection with the recovery, from tortiously liable third persons, of the cost of hospital and medical care and treatment furnished by the United States (Part 43, Chapter I, Title 28, Code of Federal Regulations) through three separate Federal agencies. The rates have been established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The rates are established as follows:

(1). *Department of Defense.* The FY 1995 inpatient rates are based on the cost per DRG, which is the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal diagnosis involved. The average cost per Relative Weighted Product (RWP) for large urban, other urban, rural, and overseas facilities will be published annually as an inpatient standardized amount.

The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the Direct Care System will be comparable to procedures utilized by Health Care Financing Administration (HCFA) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses will include all direct care expenses. The average cost per relative weighted product for large urban, other urban, rural and overseas will be published annually as an inpatient standardized amount and will include the cost of inpatient professional services. The DRG rates will apply to reimbursement from all sources. A relative weight for each DRG using the standardized amount will be the same as the DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1) which includes adjustments for outliers, area wages, and indirect medical education.

(2) *Department of Health and Human Services.* The sum of obligation for each cost center providing medical service is broken down into amounts attributable to impatient care on the basis of the proportion of staff devoted to each cost center. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculation of the rates, the Department's unfunded retirement liability cost and capital and equipment depreciation cost were incorporated to conform to requirements set forth in OMB Circular A–25. In addition, each cost center's obligations include all costs for account, such as Medicare and Medicaid collections and Contract Health funds used to support direct program operation. Inclusion of these funds yields a more accurate indication of the cost of care in HHS facilities.

(3) *Department of Veterans Affairs.* The actual costs and per diem rates by type of care for the previous year are added to the estimated cost for depreciation of buildings and equipment, administrative overhead, and Government employee retirement and disability charges. In addition, the calculation of the rates included two new cost elements as required by OMB Circular A–25. The new cost elements were "Interest on capital for land, buildings and equipment (net book value)" and "research". These computed rates are then adjusted by the budgeted percentage change to arrive at the estimated rates.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished by the United States in Federal hospitals, nursing homes, and outpatient clinics administered by the Department of Defense, the Department of Veterans Affairs and the Department of Health and Human Services.

For such care and treatment furnished at the expense of the United States in a facility not operated by the United States, the rates shall be the amounts expended for such care and treatment.

For the Department of Defense, effective October 1, 1994 and thereafter:

Inpatient, Outpatient and Other Rates and Charges

I. INPATIENT RATES [1]

	Full reimbursement rate
(Per Inpatient Day)	
A. *Burn Center*	$3,781
B. *Surgical care Services* (Cosmetic Surgery)	1,122
C. *All Other Inpatient Services* (Based on Diagnosis Related Groups (DRG) Charges).	

1. FY 1995 Direct Care Inpatient Reimbursement Rates

Adjusted Standard

Amount third party	IMET	Interagency	Full cost
Large Urban: $3,908	$1,670	$3,679	$3,908
Other Urban: $4,267	1,954	3,997	4,267
Rural: $5,066	2,085	4,744	5,066

Amount third party	IMET	Inter-agency	Full cost
Overseas: $5,089	2,146	4,794	5,089

2. Overview

The FY 1995 inpatient rates are based on the cost per DRG, which is the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal diagnosis involved. The average cost per Relative Weighted Product (RWP) for large urban, other urban, rural, and overseas facilities will be published annually as an inpatient standardized amount. (See item 1 above). The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the Direct Care System will be comparable to procedures utilized by Health Care Financing Administration (HCFA) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses will include all direct care expenses. The average cost per relative weighted product for large urban, other urban, rural and overseas will be published annually as an inpatient standardized amount and will include the cost of inpatient professional services.

The DRG rates will apply to reimbursement from all sources. A relative weight for each DRG using the standardized amount will be the same as the DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1) which includes adjustments for outliers, area wages, and indirect medical education. An example of how to arrive at DoD recoverable costs using DRG standardized weights is provided below.

3. Example of Adjusted Standardized Amounts Procedures Performed

Large Urban Area—Example

a. The cost to be recovered is DoD's cost for medical services provided in a large urban area. Billings will be at the full cost rate.

b. DRG: Nervous System infection except viral meningitis Relative Weight of Procedure 1.8427.

c. The DoD adjusted standardized amount to be recovered is $3,908 (i.e., full cost rate as shown in the table).

d. DoD cost to be recovered is the RWP factor (1.8427) in item 3b, above, times the amount ($3,908) in item 3c, above.

Cost to be recovered is *$7,201.*

II. Outpatient Charges [1]

[MEPRS Per Visit]

Code [2]	Clinical service	Full reimbursement rate
A. Medical Care		
BAA	Internal Medicine	$153
BAC	Cardiology	121
BAF	Endocrinology	138
BAG	Gastroenterology	145
BAH	Hematology	210
BAJ	Nephrology	143
BAK	Neurology	126
BAM	Oncology	116
BAN	Pulmonary Disease	125
BAO	Rheumatology	130
BAP	Dermatology	91
BAQ	Infectious Disease	98
BAR	Physical Medicine	120
BAB	Allergy	49
BAE	Diabetes	54
BAI	Hypertension	56
BAL	Nutrition	35
B. Surgical Care		
BBA	General Surgery	141
BBB	Cardiovascular/Thoracic Surgery	169
BBC	Neurology	195
BBD	Ophthalmology	112
BBE	Organ Transplant	268
BBF	Otolaryngology	126
BBG	Plastic Surgery	160
BBH	Proctology	114
BBI	Urology	158
BBJ	Pediatric Surgery	64
C. Obstetrical and Gynecological (OB-GYN)		
BCA	Family Planning	105
BCB	Gynecology	106
BCC	Obstetrics	99
D. Pediatric Care		
BDA	Pediatric	86
BDB	Adolescent	83

II. Outpatient Charges [1]—Continued

[MEPRS Per Visit]

Code [2]	Clinical service	Full reimbursement rate
BDC	Well Baby	55
	E. Orthopaedic Care	
BEA	Orthopaedic	140
BEC	Hand Surgery	78
BED/BLC	Neuromuscularskeletal	55
BEE	Orthopaedic Appliance	93
BEF	Podiatry	77
	F. Psychiatric and/or Mental Healthcare	
BFB	Psychology	104
BFC	Child Guidance	84
BFA/BFD	Mental Health	114
BFE	Social Work	86
BFF	Substance Abuse Rehabilitation	87
	G. Primary Medical Care	
BGA/BHA	Family Practice/Primary	96
BHB	Medical Examination	91
BHC	Optometry	64
BHD	Audiology Clinic	54
BHE	Speech Pathology	82
BHF	Community Health	75
BHG	Occupational Health	76
BHI	Immediate Care Clinic	125
	H. Emergency Medical Care	
BIA	Emergency Care Clinic	151
	I. Flight Medicine Clinic	
BJA	Flight Medicine	132
	J. Underseas Medicine Care	
BKA	Underseas Medicine Clinic	90
	K. Rehabilitative Services	
DHB	Occupational Therapy	51
DHD	Physical Therapy	38
	L. Same Day Surgery	
	Same Day Surgery	361

[1] **Note:** Pursuant to the provisions of 10 U.S.C. 1095, the inpatient Diagnosis Related Groups are 95 percent hospital ad 5 percent professional fee. The outpatient per visit percentages are 57 percent hospital, 33 percent ancillary, and 10 percent professional.

[2] The Medical Expense and Performance Reporting System (MEPRS) code is a three digit code which defines the summary account and the subaccount within a functional category in the DoD medical system. An example of this hierarchial arrangement is as follows:

Outpatient Care (Functional Category)

	MEPRS code
Medical Care (Summary Account).	BA
Internal Medicine (Subaccount) .	BAA

MEPRS codes are used to ensure that consistent financial and operating performance data is reported in the DoD military medical system.

III. Other Rates and Charge

	Full reimbursement rate
A. *Immunizations*	$19
B. *Hyperbaric Services:* Charges may be prorated based on usage	
1–60 minutes	169
61–120 minutes	338
121–180 minutes	506

III. Other Rates and Charge—Continued

	Full reimbursement rate
181–240 minutes	675
C. *Family Member Rate,* (Formerly Military Dependent Rate)	9.50

For the Department of Health and Human Services, Indian Health Service, effective October 1, 1994 and thereafter:

Hospital Care Inpatient Day:
HHS

General Medical Care	$1,940
Outpatient Medical Treatment:	
Outpatient Visit	201

For the Department of Veterans Affairs, effective October 1, 1994 and thereafter:

Hospital Care Inpatient Day:
VA

General Medical Care	$849
Surgical Care	1,350
Psychiatric Care	411
Intermediate Care	322
Neurology	762
Rehabilitation Medicine	612
Blind Rehabilitation	676
Substance Abuse (Alcohol and drug treatment)	290
Nursing Home Care	244
Spinal Cord Injury Care	775
Outpatient Medical and Dental Treatment:	
Outpatient Visit	194
Emergency Dental Outpatient Visit	119
Prescription filled	21

For the period beginning October 1, 1994, the rates prescribed herein superseded those established by the Director of the Office of Management and Budget on October 26, 1993 (58 FR 57638) and on July 29, 1994 (59 FR 38648).

Alice M. Rivlin,

Director, Office of Management and Budget.

[FR Doc. 94–26207 Filed 10–21–94; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–94]

Initiation of Section 302 Investigation Concerning European Community Banana Import Regime and Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of an investigation pursuant to section 302(a) of the Trade Act of 1974, as amended (Trade Act); request for public comment.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under Section 302(a) of the Trade Act, 19 U.S.C. 2412(a), concerning the European Union's practices with respect to the importation of bananas. USTR invites public comment concerning the matter under investigation.

DATES: This investigation was initiated on October 17, 1994. Written comments from the public are due on or before November 17, 1994.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Edward Kaska, Director for European Services and Agriculture, (202) 395–3320; or Irving Williamson, Deputy General Counsel, (202) 395–3432.

SUPPLEMENTARY INFORMATION: On September 2, 1994 Chiquita Brands International, Inc. and the Hawaii Banana Industry Association filed a petition pursuant to section 302(a) of the Trade Act alleging that various policies and practices of the European Union (EU), Colombia, Costa Rica, Nicaragua and Venezuela concerning trade in bananas are discriminatory, unreasonable and burden or restrict United States commerce. In particular, the petition alleges that the following acts, policies and practices are discriminatory and unreasonable: (1) Council Regulation (EEC) No. 404/93 and related rules implementing a Community banana policy discriminating against U.S. banana marketing companies importing bananas from Latin America, including a restrictive and discriminatory licensing scheme designed to transfer market share to firms traditionally trading bananas from African, Caribbean and Pacific (ACP) sources and from EU overseas territories and dependencies; and (2) the March 29, 1994 Framework Agreement on Bananas between the EU and Colombia, Costa Rica, Nicaragua and Venezuela (Framework Agreement).

Copies of the public version of the petition are available for public inspection in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506. An appointment to review the docket (Docket No. 301–94) may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Investigation and Consultations

On October 17, 1994, pursuant to section 302(a) of the Trade Act, the USTR initiated an investigation of the EU practices referred to in the petition. The investigation will be conducted in accordance with the regulations set forth in 15 CFR § 2006.

On October 17, 1994, the USTR also requested consultations with the European Union, as required by section 303(a) of the Trade Act. In preparing for such consultations, USTR will seek information and advice from the petitioner and the appropriate committees established pursuant to section 135 of the Trade Act, as provided in section 303(a)(3) of that Act.

The petition also requested initiation of an investigation concerning policies and practices of Colombia, Costa Rica, Nicaragua and Venezuela under the Framework Agreement. The USTR has carefully reviewed the material supplied by the petitioners on the Framework Agreement. While the Framework Agreement appears to provide for the implementation of discriminatory measures by Colombia, Costa Rica, Nicaragua and Venezuela, and the implementation of such discriminatory measures would clearly warrant investigation under section 302, the USTR has decided not to initiate an investigation under section 302 at this time because these measures have yet to be implemented. The USTR has called upon these governments to withdraw from the Framework Agreement before its implementation, and to seek reform of the EU's banana policy in a manner consistent with the EU's obligations under the GATT and the Agreement Establishing the World Trade Organization. If any of these governments implement the Framework Agreement or take alternative steps that appear to be unreasonable, unjustifiable or discriminatory against U.S. companies, the Trade Representative will expeditiously initiate an investigation of the practices concerned under section 302(b) of the Trade Act (19 U.S.C. 2412(b)).

Public Comment

Interested persons are invited to submit written comments concerning the issues raised in the petition and any other submissions to USTR in this investigation. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed by November 17, 1994. Comments must be in English and provided in twenty copies to: Chairman, Section 301 Committee, Room 223, USTR, 600 17th Street, NW, Washington, DC 20506.

Comments will be placed in a file (Docket 301–94) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and

must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection.

Irving Williamson,

Chairman, Section 301 Committee.

[FR Doc. 94–26311 Filed 10–21–94; 8:45 am]

BILLING CODE 3190–01–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Acworth Road, Cobb County, GA

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Acworth Road, located in Cobb County, Georgia, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990 as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of all or any portion of this property may be mailed or faxed to the RTC until January 23, 1995.

ADDRESSES: Copies of detailed descriptions of this property, including maps, can be obtained from or are available for inspection by contacting the following person: Mr. Dan Hummer, Resolution Trust Corporation, Atlanta Field Office, 245 Peachtree Center Avenue, NE, Suite 1100, Atlanta, GA 30303, (404) 230–6594; Fax (404) 225–5092.

SUPPLEMENTARY INFORMATION: The Acworth Road property is located along Highway 41 and Acworth Due West Road in Cobb County, Georgia. The site consists of approximately 81.65 acres of undeveloped land and about one-half of the property is wooded with the rest of the site cleared and planted with pine trees. The Acworth Road property has recreational value and is adjacent to Cobb County Regional Park which includes Lake Acworth and is located to the northwest. Numerous public recreational facilities and the Kennesaw Mountain National Battlefield Park are located nearby. This property is covered property within the meaning of Section 10 of the Coastal Barrier Improvement Act of 1990, P.L. 101–591 (12 U.S.C. 1441a–3).

Written notice of serious interest in the purchase or other transfer of all or any portion of this property must be received on or before January 23, 1995 by the Resolution Trust Corporation at the appropriate address above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest must be submitted in the following form:

Notice of Serious Interest

RE: Acworth Road Property

Federal Register Publication Date: October 24, 1994.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in the Coastal Barrier Improvement Act of 1990, P.L. 101–591, section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)), including, for qualified organizations, a determination letter from the United States Internal Revenue Service regarding the organization's status under section 501(c)(3) of the U.S. Internal Revenue Code (26 U.S.C. 170(h)(3)).

3. Brief description of proposed terms of purchase or other offer for all or any portion of the property (e.g., price, method of financing, expected closing date, etc.).

4. Declaration of entity that it intends to use the property for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes (12 U.S.C. 1441a–3(b)(4)), as provided in a clear written description of the purpose(s) to which the property will be put and the location and acreage of the area covered by each purpose(s) including a declaration of entity that it will accept the placement, by the RTC, of an easement or deed restriction on the property consistent with its intended conservation use(s) as stated in its notice of serious interest.

5. Authorized Representative (Name/Address/Telephone/Fax).

List of Subjects

Environmental protection.

Dated: October 19, 1994.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 94–26273 Filed 10–21–94; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

Acting Agency Clearance Officer: David T. Copenhafer (202) 942–8800.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 5th Street, N.W., Washington, D.C. 20549.

New

Mutual Fund Telephone Survey: File No. 270–395.

Mutual Fund Mail Survey: File No. 270–395.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval to execute a mutual fund telephone survey and a mutual fund mail survey.

The telephone survey will attempt to assess the public's understanding of mutual funds and other financial matters. The results will enable the Commission to better understand the level of investor comprehension of mutual fund prospectuses and financial issues. The telephone survey is divided into two parts; the first is the pretesting of the survey questions and the second is the execution of the telephone survey.

It is estimated that 334 people will be contracted during the pretesting portion of the survey. Approximately 234 individuals will be asked .5 of a minute of questions, the remaining 100 participants will be asked about 10 minutes of questions. The time involved for those contacted will be 117 minutes and 1,000 minutes respectively. The total burden hours for the pretesting portion of the survey is 18.61 hours.

It is estimated that 8,334 people will be contacted in the second phase of the telephone survey. Approximately 5,834 people will be asked .5 of a minute of questions, the remaining 2,500 mutual fund share holders will be asked 10 minutes of questions. The time involved for the first group will be 2,917 minutes and 25,000 minutes respectively. The total burden hours for the second phase of the survey will be approximately 465.28 hours.

The total for both portions of the telephone survey is estimated to be 483.89 burden hours.

The mutual fund mail survey will enable the Commission to evaluate how knowledgeable and comfortable the individuals are with making choices

among mutual funds and other financial investments. Approximately 1,000 individuals will be asked to answer about 10 minutes of questions for a total of 166.67 burden hours.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated burden hours for compliance with the Commission rules and forms to David T. Copenhafer, Acting Director, Office of Information Technology, 450 Fifth Street, N.W. Washington, D.C. 20549 and the Clearance Officer for the Securities and Exchange Commission, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: October 5, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26281 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20634; 811–6678]

The Argent Bioscience Fund, Inc.; Application

October 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Argent Biosciences Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on October 3, 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 November 14, 1994, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notifications of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 135 East Baltimore Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a non-diversified, closed-end management investment company, organized as a corporation under the laws of the state of Maryland. Applicant registered under the Act by filing a notification of registration on Form N–8A on May 22, 1992. Applicant filed a registration statement under the Securities Act of 1933 on Form N–2 on the same date. Such registration statement never became effective under the 1933 Act and applicant never made an initial offering of its shares. On September 28, 1994, applicant, by letter, requested that the Commission withdraw its registration statement under the 1933 Act.

2. Applicant never issued any securities. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26280 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Cohu, Inc., Common Stock, $1.00 Par Value) File No. 1–4298

October 18, 1994.

Cohu, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

According to the Company, its Board of Directors unanimously approved a resolution on May 3, 1994, to withdraw the Company's Common Stock from listing on the Amex and instead list such Common Stock on the National Association of Securities Dealers Automated Quotations National Market System (NASDAQ/NMS).

Any interested person may, on or before November 8, 1994, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–26279 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20635; 812–9054]

Great Hall Investment Funds, Inc., et al.; Notice of Application

October 18, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Great Hall Investment Funds, Inc.; Insight Investment Management, Inc. (the "Adviser"); and Dain Bosworth Incorporated and Rauscher Pierce Refsnes, Inc. (the "Distributors") and such other registered open-end management investment companies for which the Adviser, or any person controlled by or under common control with the Adviser, may serve as investment adviser, or for which either or both of the Distributors, or any person controlled by or under common control with the Distributors, may serve as Distributor (collectively, the "Funds").

RELEVANT ACT SECTIONS: Order requested pursuant to section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit the Funds to offer an unlimited number of classes of

shares representing interests in the same portfolio of securities, and to assess and, under certain circumstances, waive a contingent deferred sales charge ("CDSC").

FILING DATE: The application was filed on June 15, 1994 and amended on October 17, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 14, 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 who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, D.C. 20549. Applicants, 60 South Sixth Street, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Law Clerk, at (202) 942–0562, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is an open-end diversified management investment company and is organized as a Minnesota corporation. The Fund's charter authorizes the Fund to issue its shares in more than one series, each series representing a separate portfolio of assets and liabilities. The Adviser serves as the investment adviser of each series of the Fund. The Distributors serve as the principal underwriters of the Fund's shares.

2. The Fund currently consists of five series. Three series are money market series; Great Hall Prime Money Market Fund, Great Hall U.S. Money Market Fund, and Great Hall Tax-Free Money Market Fund. The other two series are non-money market series: Great Hall National Tax-Exempt Fund and Great Hall Minnesota Insured Tax-Exempt Fund.

3. Each non-money market series of the Fund currently offers its shares at net asset value plus a front-end sales charge in connection with investments of up to $1 million. Investments of $1 million are not subject to a front-end sales charge, but a CDSC is deducted in certain cases upon redemption of the Funds' shares.[1] Each money market series currently offers its shares at net asset value without the imposition of any front-end sales charge or CDSC.

4. Applicants request an order pursuant to section 6(c) for exemptions from sections 2(a)(32), 2(a)(35), 18(f)(1), 18(g), 18(i), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder to permit the Funds to issue and sell multiple classes of shares, assess a CDSC on certain redemptions, and waive the CDSC in certain instances.

5. The Funds initially propose to offer up to four different classes of shares. Class A shares will be subject to a conventional front-end sales load, except that investments of $1 million or more will not be subject to a front-end sales load but will be subject to a CDSC. Class A shares also will be subject to service and/or distribution fees at an aggregate annual rate of up to 0.30% of average daily net assets. The service fee portion may not exceed 0.25% of average daily net assets. The plan of distribution will be adopted pursuant to rule 12b–1 under the Act (a "rule 12b–1 plan") and/or, in the case of service fees only, pursuant to a shareholder service plan not subject to rule 12b–1 (a "non-rule 12b–1 plan").[2] Existing shares of the Funds will be designated Class A shares upon implementation of the multiple distribution structure (the "multi-class system").

6. Class B shares will not be subject to a front-end sales charge but will be subject to a CDSC which will decline over time. Applicants expect the CDSC to range from 4% on redemptions made during the first two years following purchase to 1% on redemptions made during the sixth year following purchase. Class B shares will be subject to a service fee at an annual rate of up to 0.25%, and a distribution fee at an annual rate of up to 0.75%, of average daily net assets. Class B shares will automatically convert into Class A shares after a specified period of time.

7. Class C shares will not be subject to a front-end sales charge but will be subject to a CDSC of up to 1% on redemptions made during the first two years following purchase. Class C shares will be subject to a service fee at an annual rate of up to 0.25%, and a distribution fee at an annual rate of up to 0.75%, of average daily net assets. Class C shares will not be convertible into any other class of shares.

8. Investors meeting minimum investment and/or other eligibility requirements established by applicants will be eligible to purchase certain exclusive shares ("Class Y shares"). Class Y shares will not be subject to a front-end sales load or a CDSC. They will be subject to a plan initially providing for combined service and/or distribution fees of up to 0.25% per annum of average daily net assets.[3]

9. Each money market series of a Fund may offer shares in two or more classes without a front-end sales charge or CDSC and with variations among classes only in service fees and or distribution fees (if any) and certain other class-specific expenses, as discussed below. The Funds also may establish one or more additional classes to be sold with different sales load, service, and distribution fee structures, as described below.

10. The net asset value of all outstanding shares of all classes will be computed on the following basis. For daily-dividend money market funds, net investment income and fund-level expenses will be allocated daily based upon the relative value of net assets of all dividend-eligible ("settled") shares of each class at the beginning of the day, after the net assets of each such class are adjusted for the prior day's capital share activity. For all other funds, income and fund level expenses will be allocated to each class based on the relative value of the net assets of all shares in each class at the beginning of the day, after the net assets of each such class are adjusted for the prior business day's capital share activity. For all funds, realized and unrealized gains and losses will be allocated to each class based on the relative percentage of net assets at the beginning of the day, after such net assets are adjusted for the prior business day's capital share activity of each class

[1] See Investment Company Act Release Nos. 19461 (May 6, 1993) (notice) and 19512 (June 4, 1993) (order). This order will be superseded by the order requested hereby as to each Fund that implements a multi-class structure.

[2] Rule 12b–1 plans and non-rule 12b–1 plans are hereinafter referred to generically as a "plan" or "plans." Applicants currently anticipate that all shareholder servicing fees will be imposed under rule 12b–1 plans. Nevertheless, applicants may impose a shareholder servicing fee pursuant to a non-rule 12b–1 plan in accordance with condition 16 below.

[3] Applicants intend that upon the initial public offering of Class Y shares of a Fund, shareholders of any existing classes of such Fund who would qualify for investment in Class Y shares would have such existing classes automatically convert into Class Y shares on the basis of the relative net asset values of such classes of shares at the time of conversion.

of shares. Class-specific expenses will be calculated and charged to the appropriate class.

11. The Funds will not impose front-end sales charges, CDSCs, service fees (or any combination thereof) in excess of amounts permitted by Article III, Section 26 of the rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD").

12. Any CDSC imposed by a class of shares will be based on the lesser of the aggregate net asset value of the shares being redeemed either at the time of purchase or redemption. No CDSC will be imposed on shares acquired through reinvestment of income dividends or capital gains distributions. Upon any request for redemption of Class A, Class B, or Class C shares, it will be assumed that shares subject to no CDSC will be redeemed first in the order purchased. If a shareholder owns Class A, Class B, and Class C shares, then, absent a shareholder choice to the contrary, Class C shares not subject to a CDSC will be redeemed in full prior to any redemption of Class A or Class B shares not subject to a CDSC, and thereafter Class B shares not subject to a CDSC will be redeemed in full prior to any redemption of Class A shares not subject to a CDSC. It is expected that the CDSC schedule of the Funds will vary depending in part on the front-end sales load (if any) applicable to the shares and the compensation paid to a dealer for selling shares of the Fund. Any variation in the CDSC schedules will be set forth in the applicable prospectus. No CDSC will be imposed pursuant to the requested order on shares issued prior to the date of the order.

13. Applicants request relief to permit each Fund to waive or reduce the CDSC in certain circumstances. Any waiver or reduction will comply with the conditions in paragraphs (a) through (d) or rule 22d–1 under the Act.

14. Applicants intend to provide a one time credit for any CDSC paid upon redemption, the proceeds of which are reinvested in the same class of shares of a Fund within 90 days of redemption. The Distributor will provide this credit from its own assets.

15. Class B shares of a Fund held for a specified number of years will automatically convert to Class A shares of such Fund at the relative net asset values of each of the classes. For purposes of calculating the holding period, Class B shares will be deemed to have been issued on the sooner of: (a) the date on which the issuance of Class B shares occurred; or (b) for Class B shares obtained through an exchange, or a series of exchanges, the date on which the issuance of the original Class B shares occurred. Class B shares in a shareholder's Fund account that were purchased through the reinvestment of dividends and other distributions paid in respect of Class B shares will be considered to be held in a separate sub-account. Each time any Class B shares in the shareholder's Fund account (other than those held in the sub-account) convert to Class A shares, a pro rata portion of the Class B shares then in the sub-account will also convert to Class A shares. The portion will be determined by the ratio that the shareholder's Class B shares converting to Class A shares bears to the shareholder's total Class B shares not acquired through dividends and distributions. The automatic conversion feature will be subject to the continuing availability of a ruling from the Internal Revenue Service (or an expert's opinion) that the conversion will not constitute a taxable event under the Code.

16. Applicants anticipate that a given class of shares will be exchangeable only for shares of the corresponding class of other Funds. Applicants will comply with rule 11a–3 as to all exchanges.

Applicants' Legal Analysis

1. Applicants request an order exempting them from the provisions of sections 18(f)(1), 18(g), and 18(i) of the Act to the extent that the proposed issuance and sale of various classes of shares representing interests in the same Fund might be deemed: (a) to result in a "senior security" within the meaning of section 18(g); (b) prohibited by section 18(f)(1); and (c) to violate the equal voting provisions of section 18(i).

2. Applicants believe that the proposed multi-class arrangement will better enable the Funds to meet the competitive demands of today's financial services industry. Under the multi-class arrangement, an investor will be able to choose the method of purchasing shares that is most beneficial given the amount of his or her purchase, the length of time the investor expects to hold his or her shares, and other relevant circumstances. The proposed arrangement would permit the Funds to facilitate both the distribution of their securities and provide investors with a broader choice as to the method of purchasing shares without assuming excessive accounting and bookkeeping costs or unnecessary investment risks.

3. The proposed allocation of expenses and voting rights relating to any rule 12b–1 plans and/or non-rule 12b–1 plans in the manner described is equitable and would not discriminate against any group of shareholders. In addition, such arrangements should not give rise to any conflicts of interest because the rights and privileges of each class of shares are substantially identical.

4. Applicants believe that the proposed multi-class arrangement does not present the concerns that section 18 of the Act was designed to address. The multi-class arrangement will not increase the speculative character of the shares of the Fund. The multi-class arrangement does not involve borrowing, nor will it affect the Funds' existing assets or reserves, and does not involve a complex capital structure. Nothing in the multi-class arrangement suggest that it will facilitate control by holders of any class of shares.

5. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder, to assess and, under certain circumstances, waive a CDSC on redemptions of shares. Applicants submit that the requested exemption to permit the Funds to implement the proposed CDSCs is appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. The proposed CDSC arrangements will provide shareholders with the option of having their full payment invested for them at the time of their purchase of shares of the Funds with no deduction of an initial sales charge.

Applicants' Conditions

Applicants agree that any order 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 various classes of shares of the same Fund will relate solely to: (a) The designation of each class of shares of the Fund; (b) expenses assessed to a class as a result of one or more plans providing for a service and/or distribution fee (as set forth above); (c) different expenses which the Board of Directors of a Fund may in the future determine to allocate to a specific class ("class-specific expenses"), which will be limited to: (i) Transfer agency fees as identified by the transfer agent as being attributable to a specific class; (ii) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxies to current shareholders; (iii) Blue Sky registration fees incurred by a class of shares; (iv) SEC registration fees incurred by a class of shares; (v) the

expenses of administrative personnel and services as required to support the shareholders of a specific class; (vi) litigation or other legal expenses relating solely to one class of shares; and (vii) directors' fees incurred as a result of issues relating to one class of shares; (d) voting rights on matters exclusively affecting one class of shares (*e.g.*, the adoption, amendment, or termination of a rule 12b–1 plan in accordance with the procedures set forth in rule 12b–1) except as provided in condition 15 below; (e) the different exchange privileges of the various classes of shares; and (f) the different conversion features of the various classes of shares. Any additional incremental 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 SEC pursuant to an amended order.

2. The directors of each of the Funds, including a majority of the independent directors, shall have approved the multi-class system, prior to the implementation thereof by a particular Fund. The minutes of the meetings of the directors of each of the Funds regarding the deliberations of the directors with respect to the approvals necessary to implement the Variable Pricing System will reflect in detail the reasons for determining that the proposed multi-class system is in the best interest of the Fund and its shareholders.

3. The initial determination of the class-specific expenses, if any, that will be allocated to a particular class of a Fund and any subsequent changes thereto will be reviewed and approved by a vote of the directors of the affected Fund, including a majority of the independent directors. Any person authorized to direct the allocation and disposition of monies paid or payable by a Fund to meet class-specific expenses shall provide to the directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purpose for which the expenditures were made.

4. On an ongoing basis, the directors of the Funds, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Fund for the existence of any material conflicts among the interests of the various classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributors will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Adviser and the Distributors at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. The directors of the Funds will receive quarterly and annual statements concerning distribution and shareholder 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 justify any distribution or servicing fee charged to that class. 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. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent 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 fee payments made under the plans relating to a particular class will be borne exclusively by each such class and except that any class-specific expenses will be borne by the applicable class of shares.

7. The methodology and procedures for calculating the net asset value and dividends/distributions of the various classes and the proper allocation of income and expenses among the classes has been reviewed by the Independent Examiner. The Independent Examiner has rendered a report, which has been provided to the staff of the SEC, stating 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 Independent Examiner, or an appropriate substitute Independent Examiner, will monitor the manner in 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 Independent Examiner shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Independent Examiners with respect to such reports, following request by the Funds which the Funds agree to make, will be available for inspection by the SEC staff upon the written request for such work papers by a senior member of the Division of Investment Management or of a Regional Office of the SEC, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Independent Examiner 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. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends/distributions among the various 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 Independent Examiner in its initial report referred to in condition 7 above and will be concurred with by the Independent Examiner, or appropriate substitute Independent Examiner, on an ongoing basis at least annually in the ongoing reports referred to in condition 7 above. Applicants agree to take immediate corrective action if the Independent Examiner, or appropriate substitute Independent Examiner, does not so concur in the ongoing reports.

9. The prospectuses of the Funds will include a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing Fund shares may receive different levels of compensation for selling one particular class of shares over another in a Fund.

10. Applicants will adopt compliance standards as to when shares of a particular class may appropriately be sold to particular investors and will require all persons selling shares of the Funds to agree to conform to these standards.

11. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Funds with respect to the multi-class system will be set forth in guidelines which will be furnished to the directors.

12. Each Fund prospectus (regardless of whether all classes of shares of such Fund are offered through such prospectus) will disclose the respective expenses, performance data,

distribution arrangements, services, fees, front-end sales charge, CDSC, exchange privileges, and conversion features applicable to each class of shares. The shareholder reports of each Fund will disclose the respective expenses and performance data applicable to each class 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 and ratios, 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 or performance data applicable to any class of shares, it will disclose the expenses and/or performance data applicable to all classes. The information provided by applicants for publication in any newspaper or similar listing of the Funds' net asset values and public offering prices will separately present each class of shares.

13. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Funds may make pursuant to rule 12b–1 distribution plans or shareholder services plans in reliance on the exemptive order.

14. Any class of shares with a conversion feature ("Purchase Class") will convert into another class ("Target Class") of shares on the basis of the relative net asset values of 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 rule 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 Target Class shares under the plan, existing Purchase Class shares will stop converting into Target Class shares unless the Purchase Class shareholders, voting separately as a class, approve the proposal. The directors shall take such action as is necessary to ensure that existing Purchase Class shares are exchanged or converted into a new class of shares ("New Target class"), identical in all material respects to the Target Class as it is existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Target Class shares. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Purchase Class shares for a new class ("New Purchase Class"), identical to existing Purchase Class shares in all material respects except that New Purchase Class shares will convert into New Target Class shares. New Target Class or New Purchase Class may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in any 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 Target Class or New Purchase Class shall be borne solely by the Adviser and the Distributors. Purchase Class shares sold after the implementation of the proposal may convert into Target Class shares subject to the higher maximum payment, provided that the material features of the Target Class plan and the relationship of such plan to the Purchase Class shares are disclosed in an effective registration statement.

16. Any non-rule 12b–1 plan will be adopted and operated in accordance with the procedures set forth in paragraphs (b) through (f) of rule 12b–1 as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

17. Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16169 (Nov. 2, 1988), as 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. 94–26277 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20629; 811–2970]

Investors Cash Reserve Fund, Inc.

October 17, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Investors Cash Reserve Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on September 28, 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 November 14, 1994 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, c/o Iris R. Clay, Investors Cash Reserve Fund, Inc., 5847 San Felipe, Suite 4100, Houston, TX 77057.

FOR FURTHER INFORMATION CONTACT: Sarah A. Buescher, Law Clerk, at (202) 942–0573, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Maryland corporation. On November 29, 1979, applicant filed a notice of registration pursuant to section 8(a) of the Act on Form N–8A, and a registration statement on Form N–1 to register its shares. The registration statement became effective on March 13, 1980, and the initial public offering commenced on the same day.

2. On February 14, 1994, applicant's board of directors adopted a Purchase Agreement and Plan of Complete Liquidation (the "Plan"). The Plan provided that applicant would transfer all of its assets and liabilities to Capstone Government Income Fund

("GIF") portfolio of Capstone Fixed Income Series, Inc., in exchange for shares of GIF. Applicant and GIF may be deemed to be affiliated persons of each other by reason of having a common investment adviser, common directors, and common officers. In order to comply with rule 17a–8, which governs mergers of certain affiliated investment companies, applicant's directors determined that the reorganization was in the best interests of applicant and applicant's shareholders and that the interests of existing shareholders would not be diluted as a result.[1]

3. A prospectus and proxy statement were filed with the SEC on or about March 1, 1994 and distributed to applicant's shareholders on or about April 4, 1994. Applicant's shareholders approved the Plan at a meeting held on May 31, 1994.

4. On June 6, 1994, the reorganization was consummated. Applicant transferred all of its assets and liabilities to GIF in exchange for shares of GIF having a net asset value equal to the value of the assets less the liabilities transferred by applicant. The exchanges were made at net asset value determined as of the close of business on June 6, 1994. Following the exchange, applicant liquidated and distributed its shares of GIF to its shareholders *pro rata* in accordance with their respective interests in applicant.

5. The expenses applicable to the reorganization, consisting of accounting, printing, administrative and certain legal expenses, are estimated to be approximately $13,000. Each of applicant, its investment adviser, and Capstone Fixed Income Series, Inc., on behalf of GIF, paid its own expenses related to the reorganization. Applicant's share of the expenses were approximately $10,000.

6. At the time of filing the application, applicant had no assets, outstanding debts or liabilities, and applicant represents that it will not acquire or invest assets in securities. Applicant has no shareholders and is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding-up of its affairs.

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26220 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–2063; File No. 812–9158]

Nationwide Variable Account-7, et al.

October 17, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Nationwide Life Insurance Company ("Nationwide"), Nationwide Variable Account-7 (the "Account") and Fidelity Investments Institutional Services Company, Inc. ("Fidelity").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting them to deduct a daily charge from the assets of the Account for mortality and expense risks in connection with the offering of certain variable annuity contracts.

FILING DATE: The application was filed on August 10, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on November 14, 1994 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: Steven Savini, McCutchan, Druen, Rath & Dietrich, One Nationwide Plaza, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Senior Attorney at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. Nationwide is a stock life insurance company incorporated under the laws of Ohio. The Account was established under Ohio law on July 22, 1994 and is registered as a unit investment trust with the Commission (file Nos. 33–82174 and 33–82190). Applicants incorporate by reference the registration statements for the Account filed on Forms N–4 with the Commission. The Account will fund two types of contracts: individual flexible purchase payment deferred variable annuity contracts (the "Flexible Premium Contracts"); and, modified single premium deferred variable annuity contracts (the "Single Premium Contracts", together, with the Flexible Premium Contracts, the "Contracts").

2. Fidelity serves as the general distributor for the Contracts.

3. The Contracts are sold to individuals either as nonqualified contracts or as individual retirement annuities which may qualify for special tax treatment under the provisions of Section 408(b) of the Internal Revenue Code of 1986, as amended (the "Code"). The Flexible Premium Contracts may also be sold as qualified contracts (to qualified plans on behalf of qualified plan participants) which may qualify for special federal tax treatment under the provisions of Section 401 of the Code or as Section 403(b) tax sheltered annuities. Purchase payments may be allocated by the Contract owner to one or more subaccounts of the Account. Each subaccount of the Account will invest at net asset value in shares of corresponding mutual funds registered under the 1940 Act. For Flexible Premium Contracts the initial purchase payment must be at least $1,500 and subsequent payments may be made in any amount of $10 or more. For Individual Premium Contracts the initial purchase payment must be at least $15,000 with additional payments, if any, of at least $5,000. Additional purchase payments under Individual Premium Contracts are not permitted for Contracts purchased in New York. Prior to the annuity commencement date, a Contract owner may elect any of three annuity payment options.

4. Upon withdrawal of part or all of the Contract value, a contingent deferred sales charge (the "Sales Charge") may be imposed by Nationwide. The Sales Charge is calculated by multiplying the applicable percentage by the amount withdrawn and is deducted from the amount

withdrawn rather than from the contract value remaining after withdrawal. The Sales Charge will be applied as follows:

Number of years from date of payment	Sales charge percentage
0	7
1	6
2	5
3	4
4	3
5	2
6	1
7	0

5. After the first Contract year, owners of Flexible Premium Contracts may withdraw an amount, free of Sales Charge, equal to 10% of the sum of all purchase payments made to the Contract at the time of withdrawal less any purchase payments previously withdrawn that were subject to a Sales Charge. This privilege is noncumulative. Withdrawals from individual retirement annuities made to satisfy minimum distribution rules, as required under the Code, are not subject to a Sales Charge. Additionally, certain withdrawals not subject to a Sales Charge may be made from Flexible Premium Contracts issued as 403(b) tax sheltered annuities or as qualified contracts under Section 401 of the Code. No Sales Charge will apply when withdrawals are made because a qualified plan participant or 403(b) tax sheltered annuity Contract owner dies, experiences financial hardship, becomes disabled, attains age 59½ and has participated in the Contract for a minimum of fifteen years, or annuitizes after two years in the Contract.

6. Owners of Individual Premium Contracts may withdraw an amount, free of Sales Charge, equal to 10% of the sum of all purchase payments made to the Contract at the time of withdrawal less any purchase payments previously withdrawn that were subject to a Sales Charge. This privilege is noncumulative. Additionally, if the owner of the Contract withdraws amounts pursuant to a systematic withdrawal program under the Contract, the owner annually may withdraw, free of Sales Charge, an amount up to the greater of: (a) 10% of the sum of all purchase payments made to the Contract at the time of withdrawal, less any purchase payments withdrawn; or (b) a specified percentage of the Contract value based upon the Contract owner's age as set forth in the application.

7. An annual Contract maintenance charge of $30 is deducted from the value of the Contract with respect to Flexible Premium Contracts. If the Contract is a qualified contract or a 403(b) tax sheltered annuity, the charge will be either $12 or $0 depending, according to Applicants, upon certain factors and objective standards which will be determined on a nondiscriminatory basis by Nationwide. Additionally, an administration charge equal on an annual basis to 0.05% of the daily net asset value of the Account is deducted from the Contract value. This administration charge is deducted during both the accumulation and the annuity phases of the Contract.

8. There is no Contract maintenance charge deducted from the value of the Individual Premium Contracts. An administration charge equal on an annual basis to 0.15% of the daily net asset value of the Account is deducted from the Contract value during both the accumulation and the annuity phases of the Contract. Nationwide estimates that the annual administration charge of 0.05% for the Flexible Premium Contracts (even when this charge is added to the $30 annual Contract maintenance charge) and the annual administration charge of 0.15% for the Individual Premium Contracts will yield an amount considerably less than the current and projected future administrative costs of Nationwide. Applicants state that Nationwide will rely on Rule 26a–1 under the 1940 Act in deducting both administration charges for the Contracts and the Contract maintenance charges for the Contracts and the Contract maintenance charge associated only with the Flexible Premium Contracts. Additionally, Applicants represent that the annual Contract maintenance charge and the administration charges will never increase. Applicants further state that Nationwide will monitor the proceeds of the charges to ensure that the charges do not exceed expenses.

9. Nationwide will impose a daily charge equal to an annual effective rate of 1.25% of the value of the net assets of the Account to compensate Nationwide for assuming certain mortality and expense risks in connection with the Contracts. Approximately .80% of the 1.25% charge is attributable to mortality risk, and approximately .45% is attributable to expense risk. If the mortality and expense risk charge is insufficient to cover actual costs and assumed risks, Nationwide will bear the loss. Conversely, if the charge exceeds costs, the excess will be profit to Nationwide. If Nationwide realizes a profit from the charge, the profit will become part of Nationwide's general account and may be used in Nationwide's discretion.

10. Applicants state that the mortality risk borne by Nationwide consists of: (a) The guarantee to make monthly payments for the lifetime of the annuitant regardless of how long that annuitant may live; and (b) the guaranteed minimum death benefit risk. Applicants state that the guaranteed minimum death benefit risk assumed by Nationwide in connection with the Flexible Premium Contracts consists of Nationwide's promise to return, at a minimum, the Contract owner's purchase payments upon the death of the designated annuitant prior to the annuity commencement date. This promise is applicable even where the investment experience in the Account has eroded the purchase payments made by the Contract owner. Where the annuitant dies after his or her 75th birthday, the death benefit is limited to the value of the Contract.

11. Applicants state that the guaranteed minimum death benefit risk assumed by Nationwide in connection with the Individual Premium Contracts consists of Nationwide's promise to pay a death benefit equal to the greatest of: (a) The sum of all purchase payments made to the Contract less any purchase payments withdrawn; (b) the value of the Contract; or, (c) the value of the Contract as of the most recent five year Contract anniversary, less any amounts withdrawn since that most recent anniversary, even where the investment experience in the Account has eroded the Contract owner's principal investment. Where the annuitant dies after his or her 86th birthday, the death benefit is limited to the Contract value.

12. Applicants state that the expense risk assumed by Nationwide is the guarantee that the Contract maintenance charge and the administration charges will never increase regardless of actual expenses incurred by Nationwide.

Applicants' Legal Analysis and Conditions

1. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant the exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act in connection with Applicants' assessment of the daily charge for mortality and expense risks. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal

underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

2. Applicants assert that the charge for mortality and expense risks is reasonable in relation to the risks assumed by Nationwide under the Contracts.

3. Applicants represent that the charge of 1.25% for the mortality and expense risks is within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based upon the analysis by Nationwide of publicly available information relative to other insurance companies of similar size and risk ratings offering similar products. Applicants represent that Nationwide will maintain a memorandum, available to the Commission upon request, setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey. Nationwide also maintains a supporting actuarial memorandum, available to the Commission upon request, demonstrating the reasonableness of the mortality and expense risk charge given the risks assumed under the Contracts.

4. Applicants represent that Nationwide has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Account and the Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by Nationwide and will be made available to the Commission upon request.

5. Applicants represent that the Account will invest only in management investment companies which undertake, in the event such company adopts a plan under Rule 12b–1 of the 1940 Act to finance distribution expenses, to have such plan formulated and approved by the company's board of directors, a majority of whom are not interested persons of such company within the meaning of the 1940 Act.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26218 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20631; File No. 812–9138]

Nationwide Variable Account-6, et al.

October 17, 1994.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Nationwide Life Insurance Company ("Nationwide"), Nationwide Variable Account-6 (the "Account") and Financial Horizons Securities Corporation ("Financial Horizons").

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting them to deduct a daily charge from the assets of the Account for mortality and expense risks in connection with the offering of certain variable annuity contracts.

FILING DATE: The application was filed on August 3, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on November 14, 1994 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants: Steven Savini, McCutchan, Druen, Rath & Dietrich, One Nationwide Plaza, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Senior Attorney at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. Nationwide is a stock life insurance company incorporated under the laws of Ohio. The Account was established under Ohio law on February 2, 1994 and is registered as a unit investment trust with the Commission (File No. 33–82370). Applicants incorporate by reference the registration statement for the Account filed on Form N–4 with the Commission. The Account will fund individual deferred variable annuity contracts (the "Contracts") issued by Nationwide.

2. Financial Horizons serves as the general distributor for the Contracts. Financial Horizons is registered with the Commission as a broker-dealer. Applicants represent that Financial Horizons is a member in good standing of the National Association of Securities Dealers.

3. The Contracts are sold either as nonqualified contracts or as individual retirement annuities which may qualify for special tax treatment under the provisions of Section 408(b) of the Internal Revenue Code of 1986, as amended (the "Code"). The Contracts may also be sold as qualified contracts (to qualified plans on behalf of qualified plan participants) which may qualify for special federal tax treatment under the provisions of Section 401 of the Code. Purchase payments may be allocated by the Contract owner to one or more subaccounts of the Account. Each subaccount of the Account will invest at net asset value in shares of the corresponding mutual fund which is registered under the 1940 Act. Prior to the annuity commencement date, a Contract owner may elect any of three annuity payment options.

4. Upon withdrawal of part or all of the Contract value, a contingent deferred sales charge (the "Sales Charge") may be imposed by Nationwide. The Sales Charge is calculated by multiplying the applicable percentage by the amount withdrawn and is deducted from the amount withdrawn rather than from the Contract value remaining after withdrawal. The Sales Charge will be applied as follows:

Number of years from date of payment	Sales charge percentage
0	7
1	6
2	5
3	4

Number of years from date of payment	Sales charge percentage
4	3
5	2
6	1
7	0

5. After the first Contract year, the owner of a Contract may withdraw an amount, free of Sales Charge, equal to 10% of the sum of all purchase payments made to the Contract at the time of withdrawal less any purchase payments previously withdrawn that were subject to a Sales Charge. This privilege is noncumulative.

6. An annual Contract maintenance charge of $30 is deducted from the value of the Contract. Additionally, an administration charge equal on an annual basis to 0.05% of the daily net asset value of the Account is deducted from the Contract value. This administration charge is deducted during both the accumulation and the annuity phases of the Contract. Nationwide estimates that the 0.05% charge for expenses will yield an amount considerably less than the current and projected future administrative costs of Nationwide, even when this charge is added to the $30 annual Contract maintenance charge. Applicants state that Nationwide will rely on Rule 26a–1 under the 1940 Act in deducting both charges. Additionally, Applicants represent that neither the annual Contract maintenance charge nor the administration charge will ever increase. Applicants further state that Nationwide will monitor the proceeds of the charges to ensure that the charges do not exceed expenses.

7. Nationwide will impose a daily charge equal to an annual effective rate of 1.25% of the value of the net assets of the Account to compensate Nationwide for assuming certain mortality and expense risks in connection with the Contracts. Approximately .80% of the 1.25% charge is attributable to mortality risk, and approximately .45% is attributable to expense risk. If the mortality and expense risk charge is insufficient to cover actual costs and assumed risks, Nationwide will bear the loss. Conversely, if the charge exceeds costs, the excess will be profit to Nationwide. If Nationwide realizes a profit from the charge, the profit will become part of Nationwide's general account and may be used in the discretion of Nationwide.

8. Applicants state that the mortality risk borne by Nationwide consists of: (a) The risk of guaranteeing to make monthly payments for the lifetime of the annuitant regardless of how long that annuitant may live; and (b) the risk of promising to pay a death benefit upon the death of the designated annuitant prior to the annuity commencement date even where the investment experience in the Account has eroded the purchase payments made by the Contract owner. Applicants state that the expense risk assumed by Nationwide is the guarantee that the Contract maintenance charge and the administration charge will never increase regardless of actual expenses incurred by Nationwide.

Applicants' Legal Analysis and Conditions

1. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant the exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act in connection with Applicants' assessment of the daily charge for mortality and expense risks. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

2. Applicants assert that the charge for mortality and expense risks is reasonable in relation to the risks assumed by Nationwide under the Contracts.

3. Applicants represent that the charge of 1.25% for the mortality and expense risks is within the range of industry practice with respect to comparable annuity products. Applicants state that this representation is based upon the analysis by Nationwide of publicly available information relative to other insurance companies of similar size and risk ratings offering similar products. Applicants represent that Nationwide will maintain a memorandum, available to the Commission upon request, setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey. Nationwide also maintains a supporting actuarial memorandum, available to the Commission upon request, demonstrating the reasonableness of the mortality and expense risk charge given the risks asssumed under the Contracts.

4. Applicants represent that Nationwide has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Account and the Contract owners. The basis for such conclusion is set forth in a memorandum which will be maintained by Nationwide and will be made available to the Commission upon request.

5. Applicants represent that the Account will invest only in management investment companies which undertake, in the event such company adopts a plan under Rule 12b–1 of the 1940 Act to finance distribution expenses, to have such plan formulated and approved by the company's board of directors, a majority of whom are not interested persons of such company within the meaning of the 1940 Act.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26219 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20636; International Series Release No. 733; 812–9210]

Stadshypotek AB; Notice of Application

October 19, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: Stadshypotek AB.

RELEVANT ACT SECTION: Order requested under section 6(c) for an exemption from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant is a wholly-owned subsidiary of Konungariket Sveriges stadshypotekskassa (also known as the Urban Mortgage Bank of the Kingdom of Sweden) ("UMB"). Applicant seeks an exemption under section 6(c) from all provisions of the Act. UMB was

established by the Swedish government to finance the acquisition and development of residential and commercial properties in Sweden through mortgage lending. UMB is being converted into a private sector limited liability company. Applicant is the corporation through which this privatization will be accomplished. As part of the privatization, applicant intends to offer and sell a tranche of its common shares ("Shares") in the United States under rule 144A under the Securities Act of 1933. In addition, applicant may offer and sell other debt and equity securities in the United States in the future.

FILING DATES: The application was filed on September 7, 1994. Applicant has agreed to file an amendment during the notice period, the substance of which is incorporated herein.

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 November 7, 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 notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Stadshypotek AB, c/o John Paul Ketels, Rogers & Wells, 607 Fourteenth Street, N.W., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Senior Attorney, (202) 942–0565, or C. David Messman, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. In 1909, UMB was established under a special act of the Swedish Parliament to finance the acquisition and development of residential and commercial properties in Sweden through mortgage lending. Before December 31, 1992, the mortgage business now conducted by applicant was conducted by (a) UMB, which was responsible for funding operations, and (b) 20 regional urban mortgage societies, which were responsible for lending operations. On January 1, 1993, the mortgage societies merged with UMB, and UMB emerged as a holding company owning all of the assets previously owned by the mortgage societies.

2. In 1992, the Swedish Parliament adopted legislation providing for the conversion of UMB's business into a private sector limited liability company. As part of the privatization, on January 1, 1993, UMB contributed all of its assets to applicant in exchange for all of applicant's capital stock and intercompany debt obligations. Applicant has since been responsible for the operations of UMB.

3. Applicant is incorporated as a credit market company was limited liability in Sweden. As of December 31, 1993, applicant's consolidated total equity was approximately 11.28 billion Swedish Kronor ("SEK") (approximately U.S. $1.5 billion).

4. Applicant is subject to an extensive regulatory regime in Sweden pursuant to the Swedish Act on Credit Market Companies. The Swedish Financial Supervisory Authority ("SFSA") is responsible in Sweden for regulating applicant. Applicant does not make any loans outside of Sweden.

5. Applicant, in addition to its principal business of extending mortgage loans, issues retail market bonds. Retail market bonds are debt securities issued in small denominations with maturities of various lengths including 90 days, two years, and five years, which are used as a means of competitively raising intermediate term funds. Retail market bonds constitute a general obligation of applicant that ranks *pari passu* with other general obligations of applicant. The redemption price prior to maturity is established each day in relation to the major public bonds of applicant. Applicant publishes on a daily basis the price at which it will buy or sell retail market bonds of a particular maturity. As of December 31, 1993, applicant had issued approximately 11 billion SEK aggregate face amount of retail market bonds, which constituted approximately 3.6% of applicant's short- and long-term securities outstanding.

6. On August 31, 1994, UMB, as applicant's sole shareholder, approved a plan to privatize applicant. To effect the privatization, 37,500,000 of applicant's Series A shares will be offered to the public. Rights to subscribe for the shares will be allocated to qualifying borrowers, qualifying employees of applicant, and UMB. If all rights are taken up, a total of 75,000,000 shares will be owned by the investing public and 42,500,000 by UMB. UMB's interest in applicant will consist of 10,000,000 Series A shares and all of the 32,500,000 Series B shares. Although Series A and Series B shares have identical voting rights, Series B shares will receive a dividend that is SEK 3.6 per share less than Series A shares. Series B shares will convert into Series A shares in 1999.

7. In addition, international institutional investors will be offered Class A shares of applicant, certain of which applicant wishes to sell to U.S. "qualified institutional buyers" under rule 144A under the Securities Act of 1933 (the "Offer"). Afterwards, UMB will own approximately 36% of the outstanding equity securities of applicant. In addition, applicant may offer and sell additional debt and/or equity securities in the United States in the future.

Applicant's Legal Analysis

1. Section 3(a)(3) of the Act defines an investment company to include any issuer engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and that owns or proposes to acquire investment securities having a value exceeding 40% of the issuer's total assets, exclusive of Government securities and cash items on an unconsolidated basis. Because all of the monies borrowed by applicant from time to time are loaned to its customers, all or substantially all of applicant's assets will consist of promissory notes and other obligations of customers to repay such loans. Such obligations could be deemed to be investment securities within the meaning of section 3(a)(3). As a result, applicant may be deemed to be an investment company.

2. Rule 3a–6 exempts foreign banks from the definition of investment company for all purposes under the Act. A foreign bank is defined to include a banking institution engaged substantially in "commercial banking activity," which, in turn, is defined to include "accepting demand and other types of deposits." While applicant issues retail market bonds, it does not technically "accept demand and other types of deposits," and therefore may not be able to rely on rule 3a–6.

3. Applicant believes that it is functionally equivalent to a foreign bank because it issues financial products similar to those issued by banks, and it is subject to an extensive alternative regulatory scheme. Applicant argues that its customers view retail market bonds like demand deposits or

certificates of deposit offered by banks. Applicant has issued approximately 20% of the outstanding retail market bonds in Sweden; the other 80% of retail market bonds are issued by commercial banks and the National Debt Office. Applicant believes that retail market bonds are a unique savings product for the Swedish market that would not be of interest outside of Sweden. Applicant has no intention of offering retail market bonds in the United States now or in the future. Applicant, however, may consider issuing bonds in accordance with market practice and custom in the United States. Any such issuance of bonds would be registered under the Securities Act of 1933 or made pursuant to an available exemption from registration.

4. Applicant is subject to extensive regulation by the SFSA, the entity that also regulates banks in Sweden. As with Swedish banks, applicant is subject to continuous filing requirements of financial and other information with the SFSA, and to SFSA spot inspections. The scope of applicant's business activities cannot be materially altered without the approval of the SFSA. Moreover, applicant is subject to the same capital adequacy requirements as Swedish banks.

5. Sections 3(c)(5)(C) of the Act excepts from the definition of investment company any person who is not engaged in the business of issuing redeemable securities and who is engaged primarily in purchasing or otherwise acquiring mortgages and other liens on and interests in real estate. Applicant states that it is engaged primarily in purchasing or otherwise acquiring mortgages since 90% of its assets consist of mortgage loans secured exclusively by real estate. Applicant, however, may not be able to rely on the exception provided by section 3(c)(5)(C) because the retail market bonds it has issued could be deemed to be redeemable securities.[1]

6. Applicant does not believe that the issuance of retail market bonds raises the concerns that led Congress to restrict section 3(c)(5)(C) to companies that do not issue redeemable securities. In extending the regulatory provisions of the Act to mortgage entities otherwise covered by section 3(c)(5)(C) that issue redeemable securities, Congress sought to apply such provisions to "those companies which purport to model themselves after open-end companies by issuing a security redeemable at the option of the holder."[2] Unlike investors who invest in open-end investment companies relying on a pool of assets for their return, investors in retail market bonds are investing in short and intermediate fixed-term deposit instruments most typically sold by banks. Applicant is not marketing a return on interests in mortgage loans. Furthermore, unlike the holder of a redeemable security, the holder of a retail market bond may redeem it at a market price at the time of redemption and not for his or her "proportionate share of the net assets." Applicant is not in the business of issuing retail market bonds other than as a way of competitively raising intermediate term funds to support its principal business of making mortgage loans. Based on the structure and organization of applicant, and the nature and characteristics of the retail market bonds, applicant states that there is no need to be concerned with investors being confused that applicant is a vehicle for investing in mortgage pools.

7. Section 6(c) of the Act provides that the SEC may exempt any person or transaction from any provision of the Act or any rule thereunder to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

8. Applicant was created by the Government of Sweden to provide efficient mortgage financing for private households as well as property companies and municipalities. Applicant is limited and controlled in many respects as to the financings it can undertake and loans that it can make by a strict regime of regulation implemented by the Government of Sweden. Applicant asserts that its operations do not lend themselves to the abuses against which the Act is directed. Consequently, applicant believes that the standards for relief under section 6(c) are satisfied.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–26278 Filed 10–21–94; 8:45 am]

BILLING CODE 8010–01–M

[1] A redeemable security is defined in section 2(a)(32) as any security, other than short-term paper, under the terms of which the holder upon presentation to the issuer is entitled to receive approximately his proportionate share of the issuers current net assets, or the cash equivalent thereof.

[2] Senate Report No. 184, 91st Cong., 1st Sess. 37 (1969).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer:

Cleo Verbillis, Small Business Administration, 409 3rd Street, S.W., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629

OMB Reviewer:

Donald Arbuckle, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503

Title: Certified Development Company Annual Report Guide
Form No.: SBA Form 1253, 1253A
Frequency: Annual
Description of Respondents: Certified Development Companies
Annual Responses: 300
Annual Burden: 10,800

Title: Use of Proceeds—Section 504
Form No.: SBA Form 1429
Frequency: On occasion
Description of Respondents: Certified Development Companies
Annual Responses: 2,000
Annual Burden: 1,000

Dated: October 14, 1994.

Cleo Verbillis,

Acting Deputy Director, Office of Administrative Services.

[FR Doc. 94–26271 Filed 10–21–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 2089]

Assistance To Support UN Voluntary Fund for Victims of Torture; Determination

Pursuant to Section 451 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2261) (the "Act"), and Section 1–201 of Executive Order 12163, as amended, I hereby authorize, notwithstanding any other provision of law, the use in fiscal year 1994 of $1.0 million in funds made available under Chapter 3 of Part I of the Act for assistance to the UN Voluntary Fund for Victims of Torture.

This authorization shall be reported to Congress immediately and published in the **Federal Register.**

Dated: September 20, 1994.

Warren Christopher,

Secretary of State.

[FR Doc. 94–26208 Filed 10–21–94; 8:45 am]

BILLING CODE 4710–10–M

[Public Notice 2100]

Shipping Coordinating Committee; International Maritime Organization (IMO) Legal Committee; Notice of Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 a.m., on Thursday, November 17, 1994, in Room 3442–3446 of the U.S. Department of Transportation Headquarters (Nassif building), 400 7th Street, SW, Washington, DC. The purpose of this meeting is to report on the 71st Session of the International Maritime Organization (IMO) Legal Committee held October 10–14, 1994, and to begin preparations for the 72nd Session to be held in April 3–7, 1995.

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first subject addressed will be the draft International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS Convention). The second major subject, which will be considered at approximately 11:30 a.m., will be possible revisions to the 1976 Convention on Limitation of Liability for Maritime Claims ('76 LLMC).

The current draft of the HNS Convention imposes strict liability upon the shipowner with an additional international fund (second-tier fund) modeled after the International Oil Pollution Compensation Fund. The draft HNS convention provides compensation for environmental damage as well as personal injury and property damage from a broad range of substances. At the 71st Session, the Legal Committee finalized decisions on several issues regarding the draft HNS convention and agreed in principle on several others. However, other important questions remain to be resolved. The views of the public are requested.

The Legal Committee resumed deliberations on the '76 LLMC at the 71st Session. Several decisions were made, and discussion centered on a draft protocol which provides for raising the limits of liability and a streamlined tacit amendment procedure. Work will continue at the 72nd Session to be held April 3–7, 1995. Although the United States has not ratified the '76 LLMC, interests within the United States—such as owners of foreign flag vessels and passengers on foreign flag vessels—may be affected by changes to the Convention. The views of the public are requested.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room. For further information or to submit views concerning the subjects of discussion, contact either Captain David J. Kantor or Lieutenant Commander Steven D. Poulin, U.S. Coast Guard (G–LMI), 2100 Second Street, SW, Washington, DC 20593, telephone (202) 267–1527, telefax (202) 267–4496.

Dated: October 13, 1994.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 94–26298 Filed 10–21–94; 8:45 am]

BILLING CODE 4710–7–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 94–066]

Differential Global Positioning System, Pacific Corridor Region; Environmental Assessment

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability.

SUMMARY: The Coast Guard has prepared a Programmatic Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for implementing a Differential Global Positioning System (DGPS) Service in the Pacific Corridor Region of the United States. The EA concluded that there will be no significant impact on the environment and that preparation of an Environmental Impact Statement will not be necessary. This notice announces the availability of the EA and FONSI and solicits comments on them.

DATES: Comments must be received on or before November 23, 1994.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

Copies of the EA and FONSI may be obtained by contacting LCDR George Privon at (202) 267–0297 or faxing a request at (202) 267–4427. A copy of the EA (less enclosures) is also available on the Electronic Bulletin Board System (BBS) at the Navigation Information Service (NIS) in Alexandria, VA (703) 313–5910. For information on the BBS, call the NIS watchstander at (703) 313–5900.

FOR FURTHER INFORMATION CONTACT: LCDR George Privon, Radionavigation Division, (202) 267–0297.

SUPPLEMENTARY INFORMATION:

Request for Comments

Copies of the Programmatic Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) are available as described under **ADDRESSES.** The Coast Guard encourages interested persons to comment on these documents. The Coast Guard may revise these documents in view of the comments. If revisions are warranted, availability of the revised documents will be announced by a later notice in the **Federal Register.**

Background

As required by Congress, the Coast Guard is preparing to install the equipment necessary to implement a Differential Global Positioning System (DGPS) service in the Pacific Corridor area of the United States. DGPS is a new radionavigation service that improves upon the 100 meter accuracy of the existing Global Positioning System (GPS) to provide an accuracy of better than 10 meters. For vessels, this degree of accuracy is critical for precise electronic navigation in harbors and harbor approaches and will reduce the number of vessel groundings, collisions, personal injuries, fatalities, and potential hazardous cargo spills resulting from such incidents.

After extensive study, the Coast Guard has selected five sites along the Pacific

Corridor coastline for the DGPS equipment. The sites are in the vicinity of Point Loma, CA; Point Arguello, CA; Pigeon Point, CA; Point Blunt, CA; and Cape Mendocino, CA. The sites are currently used for related purposes and were chosen, in part, because their proposed future use is consistent with their past and present use, thus minimizing further impact on the environment. DGPS signal transmissions will be broadcast in the marine radiobeacon frequency band (283.5 to325 KHz) using less than 50 watts (effective radiated power). Signal transmissions at these low frequencies and power levels have not been found to be harmful to the surrounding environment.

Proposed Installations at Each Site

(a) Radiobeacon Antenna—The Coast Guard proposes to use either an 80 foot whip antenna or install a 90 foot guyed antenna with an accompanying ground plane. A ground plane for these antenna's consists of approximately 120 copper radials (6 gauge copper wire) installed 6 inches (or less) beneath the soil and projecting outward from the antenna base. The optimum radial length is between 200–300 feet, but this length may be shortened to fit within property boundaries. Wherever possible, a cable plow method will be used in the radial installation to minimize soil disturbance. Installation of the ground plane may require some clearing of trees and bushes on the site.

(b) DGPS Antennas—Each site will also require two 10 foot masts to support four small (4 inches by 18 inches diameter) receiving antennas. The masts will be installed on a concrete foundation measuring approximately 3 feet by 3 feet by 15 inches. These masts are needed to support the primary and backup reference receivers and integrity monitors. The location of the two masts will be in the vicinity of the electronic equipment building or hut, but at least 50 feet to 100 feet from existing structures.

(c) Equipment shelter—For each site, except at Point Blunt, where the existing fog signal building will be used, a 10 foot by 16 foot equipment hut will be needed to house the DGPS equipment.

(d) Utilities—The Coast Guard proposes to use available commercial power as the primary source for the electronic equipment. However, existing diesel generators are available at the Point Loma and Point Arguello sites and may be utilized if backup power is needed. A telephone line will be required at each site for remote monitoring and operation.

Description of Each Site

The Point Loma Light Station, CA site is located at the entrance to San Diego Bay. This site is currently being used for radiobeacon operations and, as a result, has much of the infrastructure in place. The site will require installation of a 90 foot guyed transmit antenna. In addition, a 10 foot by 16 foot equipment hut will be installed to house the DGPS electronic equipment. The Coast Guard and CA State Historic Preservation Officer (SHPO) agree that the proposed project will have no effect on the nearby light station.

The Point Arguello, CA, site is near the city of Lompoc and adjacent to Vandenburg AFB. This site is currently being used for radiobeacon operations and, as a result, has much of the infrastructure in place. The site will require installation of a 90 foot guyed transmit antenna and a 10 foot by 16 foot equipment hut to house the DGPS electronic equipment.

The Pigeon Point, CA site is located north of the city of Santa Cruz near Pescadero, CA. This site is currently being used for radiobeacon operations and, as a result, has much of the needed infrastructure in place. The site will require installation of a 90 foot guyed transmit antenna and a 10 foot by 16 foot equipment hut to house the DGPS electronic equipment. The Coast Guard and CA State Historic Preservation Officer (SHPO) agree that the proposed project will have no effect on the adjacent light station.

The Point Blunt, CA site is located on Angel Island within San Francisco Bay. This site performed related operations in the past, as a result, has much of the needed infrastructure in place. The site will require installation of an 80 foot whip antenna. DGPS equipment will be housed in the existing fog signal building.

The Cape Mendocino, CA site is located south of Eureka near Capetown, CA. The site will require installation of a 90 foot guyed transmit antenna and a 10 foot by 16 foot equipment hut to house the DGPS electronic equipment. The Coast Guard and CA State Historic Preservation Officer (SHPO) agree that the proposed project will have no effect on the adjacent lightstation.

Implementation of a DGPS service in the Pacific Corridor Region is determined to have no significant effect on the quality of the human environment or require preparation of an Environmental Impact Statement.

Dated: October 19, 1994.

G.A. Penington,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 94–26314 Filed 10–21–94; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Avaiation Rulemaking Advisory Committee Meeting on General Aviation and Business Airplane Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss general aviation and business airplane issues.

DATES: The meeting will be held on November 8, 1994, at 9:30 a.m. Arrange for oral presentations by November 1, 1994.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association headquarters, Suite 801, 1400 K Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Carolina Forrester, Office of Rulemaking, FAA, 800 Independence Avenue, SW. Washington, DC 20591, telephone (202) 267–9690.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on November 8, 1994, at the General Aviation Manufacturers Association, Suite 801, 1400 K Street NW., Washington, DC 20005. The agenda for the meeting will include:

- Opening Remarks
- Review of Issues
- Update on Accelerated Stalls
- Update on Fuel Pressure
- Discussion of Future Tasks
- Schedule Future Meetings

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by November 1, 1994, to present oral statements at the meeting. The public may present written statements to the committee, at any time, by providing 25 copies to the Assistant Executive Director, or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading FOR FURTHER INFORMATION CONTACT.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Kansas City, Missouri on October 19, 1994.

Chris A. Christie,

Director, Office of Rulemaking.

[FR Doc. 94–26256 Filed 10–21–94; 8:45 am]

BILLING CODE 4910–13–M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to exchange views on proposals submitted to the eighteenth session of the United Nations' Committee of Experts on the Transport of Dangerous Goods (November 28 through December 7, 1994).

DATES: November 17, 1994 at 9:30 a.m.

ADDRESSES: Room 4436–4440, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the eighteenth session of the Committee of Experts on the Transport of Dangerous Goods to be held November 28 through December 7, 1994, in Geneva. The Committee is responsible for the United Nations Recommendations on the Transport of Dangerous Goods (UN Recommendations) which forms the basis for international modal regulations on the transport of dangerous goods. During this meeting, the U.S. position on proposals submitted to the eighteenth session of the Committee will be discussed. Topics to be covered include: packaging requirements for explosives, revision of the manual for tests and criteria, classification criteria for environmentally hazardous substances, requirements for infectious substances, requirements for multimodal tanks, requirements for salvage packagings, classification of specific dangerous goods and proposed amendments to the Ninth Revised Edition of the United Nations Recommendations on the Transport of Dangerous Goods.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the eighteenth session of the UN Committee meeting may be obtained from RSPA. A listing of these documents is available on the Hazardous Materials Information Exchange (HMIX), RSPA's computer bulletin board. Documents may be ordered by filling out an on-line request form on the HMIX or by contacting RSPA's Dockets Unit (202–366–4453). For more information on the use of the HMIX system, contact the HMIX information center; 1–800–PLANFOR (752–6367); in Illinois, 1–800–367–9592; Monday through Friday, 8:30 a.m. to 5:00 p.m. Central time.

After the meeting, a summary of the public meeting will also be available from Hazardous Materials Advisory Council, Suite 301, 1101 Vermont Ave., NW., Washington, DC 20005; telephone number (202) 289–4550.

Issued in Washington, DC, on October 18, 1994.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 94–26272 Filed 10–21–94; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 13, 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 (IRS)

OMB Number: 1545–1018
Regulation ID Number: FI–61–91 Final and FI–27–89 Final
Type of Review: Extension
Title: Notice of Allocation of Allocable Investment Expense (FI–61–91); Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters (FI–27–89)
Description: These regulations prescribe the manner in which an entity elects to be taxed as a real estate mortgage investment conduit (REMIC) and the filing requirements for REMICs and certain brokers.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 655
Estimated Burden Hours Per Respondent: 18 minutes
Frequency of Response: Quarterly, Annually
Estimated Total Reporting Burden: 978 hours
OMB Number: 1545–1265
Regulation ID Number: IA–120–86 NPRM
Type of Review: Extension
Title: Capitalization of Interest
Description: This regulations require taxpayers to maintain contemporaneous written records of estimates, to file a ruling request to segregate activities in applying the interest capitalization rules, and to request the consent of the Commissioner to change their methods of accounting for the capitalization of interest.
Respondents: Individuals or households, Businesses or other for-profit
Estimated Number of Respondents: 1
Estimated Burden Hours Per Respondent: 1 hour
Frequency of Response: On occasion
Estimated Total Reporting Burden: 1 hour
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW, Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–26275 Filed 10–21–94; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review

October 18, 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 (IRS)

OMB Number: 1545–1016
Form Number: IRS Form 8613
Type of Review: Extension
Title: Return of Excise Tax on Undistributed Income of Regulated Investment Companies
Description: Form 8613 is used by regulated investment companies to compute and pay the excise tax on undistributed income imposed under section 4982. IRS uses the information to verify that the correct amount of tax has been reported.
Respondents: Businesses or other for-profit
Estimated Number of Respondents: 1,500
Estimated Burden Hours Per Respondent:
Recordkeeping—6 hr., 42 min.
Lerning about the law or the form—2 hr., 5 min.
Preparing and sending the form to the IRS—2 hr., 17 min.
Frequency of Response: Annually
Estimated Total Reporting Burden: 1,605 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) 395–7340, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–26276 Filed 10–21–94; 8:45 am]

BILLING CODE 4830–01–P

Treasury Directive Number 12–04

Delegation of Authority for Budget Execution in the Departmental Offices; Authority Delegation

Dated: October 18, 1994.

1. *Delegation.* Pursuant to sections 3. and 5. of Treasury Order (TO) 102–13, this Directive delegates the authority for budget execution/control of funds in the Departmental Offices (DO). For the purposes of paragraphs 3.a. and 3.c. of TO 102–13:

a. the Deputy Assistant Secretary (Administration) shall perform those functions assigned three to the "head of bureau" with respect to the DO other than the Financial Crimes Enforcement Network (FinCEN); and

b. the Director, FinCEN, shall perform those functions assigned there to the "head of bureau" with respect to FinCEN.

2. Nothing in this Directive shall be construed to:

a. apply to the Office of Inspector General or the Treasury Asset Forfeiture Fund; or

b. change organizational or reporting relationships of DO or FinCEN.

3. *Authority* TO 102–13, "Delegation of Authority Concerning Budget Matters," dated January 19, 1993.

4. *Expiration Date.* This Directive expires three years from the date of issuance.

5. *Office of Primary Interest.* Office of Budget, Financial Service Directorate/ Deputy Chief Financial Officer, Office of the Assistant Secretary (Management)/ Chief Financial Officer.

George Muñoz,

Assistant Secretary (Management)/Chief Financial Officer.

[FR Doc. 94–26221 Filed 10–21–94; 8:45 am]

BILLING CODE 4810–25–P

Internal Revenue Service

[Delegation Order No. 158]

Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of authority.

SUMMARY: Delegation Order 158 delegates authority for seizure and forfeiture of property under the Money Laundering Control Act of 1986 and the Bank Secrecy Act. The text of the delegation order appears below.

EFFECTIVE DATE: September 23, 1994.

FOR FURTHER INFORMATION CONTACT: Pat Allen, CP:CI:R, Room 7030, 1111 Constitution Avenue NW., Washington, DC 20224, telephone (202) 622–5688 (not a toll-free call).

Seizure and Forfeiture of Property under the Money Laundering Control Act of 1986 and the Bank Secrecy Act

Pursuant to the authority granted to the Commissioner of Internal Revenue by Treasury Directive 15–42,

1. The Chiefs, Criminal Investigation, are delegated:

a. investigatory authority over violations of 18 U.S.C. Sections 1956 and 1957 where the underlying conduct is subject to investigation under Title 26 or under the Bank Secrecy Act, as amended, 31 U.S.C. Sections 5311–5326 (other than violations of 31 U.S.C. Section 5316);

b. seizure authority over violations of 18 U.S.C. Section 981 relating to violations of:

(1) 31 U.S.C. Sections 5313 and 5324(a); and

(2) 18 U.S.C. Sections 1956 and 1957 which are within the investigatory jurisdiction of IRS pursuant to paragraph 1.a. above; and

c. seizure authority relating to any other violation of 18 U.S.C. Section 1956 or 1957 if the bureau with investigatory authority is not present to make the seizure. Property seized under 18 U.S.C. Section 981 where investigatory jurisdiction is solely with another bureau not present at the time of the seizure shall be turned over to that bureau.

d. approval authority to complete the forfeiture action and recommend administrative forfeitures negotiated by the U.S. Attorney, under the terms and conditions elicited in Section III, Directive 91–15 issued by the Department of Justice, Executive Office for Asset Forfeiture. This authority pertains only to administrative forfeitures, where cost and claim bonds have been filed, and an agreement is subsequently negotiated by the U.S. Attorney, wherein the claimant withdraws the claim and the case is referred back to the Service, which will administratively forfeit the property according to the terms of the agreement. The Chief will make a recommendation to the district director of the key district for Criminal Investigation on the resulting administrative forfeiture.

e. to sign title and transfer documents to transferees or purchasers of forfeited property, including real property.

2. The authority granted in paragraphs 1a through 1c may be redelegated on a case-by-case basis no lower than special agent.

3. Special agents are authorized:

a. to notify any other Treasury bureau of an investigation if, at any time during an investigation under this order, evidence is discovered of a matter within the jurisdiction of that other bureau, and to invite the participation of that bureau in the investigation.

b. to estimate the value of the seized property and if valued at $500,000 or less, to cause a list to be prepared and to appraise or cause appraisal to be obtained and to attest to such list and appraisement and to publish notice; and

c. to cause notice of sale of seized property to be placed in accordance with Federal regulations.

4. The Assistant Commissioner (International), district directors of key districts for Criminal Investigation and the Director, Taxpayer Service and Compliance, in the International function are authorized:

a. to make determinations under Federal regulations concerning type and conditions of cost bonds;

b. to exercise authority of the Commissioner concerning the disposition of property seized under this order, including authority concerning the disposition of perishable goods;

c. to execute the declaration of forfeiture showing that personal property has been forfeited to the United States; and

5. The authority delegated in paragraph 4 may not be redelegated.

6. The Assistant Commissioner (Criminal Investigation) and Director, Office of National Operations (Criminal Investigation) are authorized:

a. to allow or deny petitions for remission or mitigation of forfeiture of property seized under 18 U.S.C. Section 981, valued at not more than $500,000, to accept or reject any offer in compromise of the liability to forfeit personal property, and to make the necessary determinations and notifications, and to authorize the Assistant Commissioner (International) or the district directors of key districts for Criminal Investigation and the Director, Taxpayer Service and Compliance, in the International function to notify the petitioner or offeror of the action taken on the petition or offer.

b. to retain or to equitably transfer property valued at less than $1,000,000 and forfeited pursuant to 18 U.S.C. Section 981 on such terms and conditions as he/she may determine:

(1) to any other Federal agency.

(2) to any state or local law enforcement agency which participated directly in any acts which led to the seizure or forfeiture of the property, in a manner which reflects the agency's level of contribution.

7. The authority delegated in paragraph 6a may not be redelegated. The authority delegated in paragraph 6b may be redelegated no lower than Chief, Narcotics and Money Laundering Branch (Criminal Investigation), except property valued at $100,000 or less, which may be redelegated to the Chief, Asset Forfeiture Section.

8. To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified.

Dated: October 13, 1994.

Approved:

James McGovern,

(Acting) Chief Compliance Officer.

[FR Doc. 94–26326 Filed 10–21–94; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Performance Review Board Members

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Under the provisions of 5 U.S.C. 4314(c)(4) agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice revises the list of members of the Department of Veterans Affairs (VA) Performance Review Boards which was published in the **Federal Register** on May 9, 1994 (59 FR 23924).

EFFECTIVE DATE: October 17, 1994.

FOR FURTHER INFORMATION CONTACT: Carol A. Kummer, Office of Human Resources Management (053), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–4937.

VA Performance Review Board (PRB)

Eugene A. Brickhouse, Assistant Secretary for Human Resources and Administration (Chairperson)
Raymound H. Avent, Deputy Under Secretary for Benefits
Shirley Carozza, Deputy Assistant Secretary for Budget
Sanford M. Garfunkel, Associate Chief Medical Director for Operations (Alternate)
Harold F. Gracey, Jr., Chief of Staff, Office of the Secretary
C. Wayne Hawkins, Deputy Under Secretary for Health for Administration and Operations
Gerald K. Hinch, Deputy Assistant Secretary for Equal Opportunity
Kathy E. Jurado, Assistant Secretary for Public and Intergovernmental Affairs
Mary Lou Kener, General Counsel
William T. Merriman, Deputy Inspector General
Roger R. Rapp, Director of Field Operations, National Cemetery System
William D. Stinger, Chief of Staff, Veterans Benefits Administration (Alternative)

Veterans Benefits Administration PRB

Raymond H. Avent, Deputy Under Secretary for Benefits (Chairperson)
Celia Dollarhide, Director, Education Service
J. Gary Hickman, Director, Compensation and Pension Service
Stephen L. Lemons, Director, Central Area
Richard Pell, Jr., Deputy Chief of Staff, Office of the Secretary
Newell Quinton, Director, Veterans Assistance Service
Leo Wurschmidt, Director, Southern Area

Veterans Health Administration PRB

John T. Farrar, M.D., Deputy Under Secretary for Health (Chairperson)
C. Wayne Hawkins, Deputy Under Secretary for Health for Administration and Operations (Co-Chairperson)
Jim W. Delgado, Director, Voluntary Service
Barbara L. Gallagher, Regional Director, Eastern Region
Sanford M. Garfunkel, Associate Chief Medical Director (CMD) for Operations
Harold F. Gracey, Jr., Chief of Staff, Office of the Secretary
W. Todd Grams, Chief Financial Officer
James L. Green, M.D., Deputy Associate CMD for Rehabilitation and Prosthetics
John R. Higgins, M.D., Regional Director, Southern Region
Thomas B. Horvath, M.D., Director, Mental Health and Behavioral Sciences Service
David H. Law, M.D., Acting Associate Deputy CMD for Clinical Programs
Lydia B. Mavridis, Acting Associate CMD for Administration
Jule D. Moravec, Ph.D., Regional Director, Western Region
Robert A. Perreault, Director, Health Care Reform Office
Elizabeth M. Short, M.D., Associate CMD for Academic Affairs
Dennis H. Smith, Chief of Staff to the Under Secretary for Health
David Whatley, Regional Director, Central Region
Charles V. Yarbrough, Associate CMD for Construction Management

Office of Inspector General PRB

Milton M. MacDonald, Deputy Assistant Inspector General for Auditing, Department of State (Chairperson)
David A. Brinkman, Assistant Inspector General for Analysis and Followup, Department of Defense
Wilbur Daniels, Assistant Inspector General for Inspections and Evaluations, Department of Transportation

Dated: October 17, 1994.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 94–26321 Filed 10–21–94; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 204
Monday, October 24, 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).

DEPARTMENT OF ENERGY
FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

DATE AND TIME: October 26, 1994; 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 618th Meeting—October 26, 1994, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 77–066, Pacific Gas and Electric Company
CAH–2.
Project No. 3459–013, Cascade Water Power Development Corporation
CAH–3.
Project No. 3947–008, Kaweah River Power Authority
CAH–4.
Project No. 11151–010, Energy Alternatives of North America, Inc.
CAH–5.
Docket No. UL91–20–001, Ward Paper Company
CAH–6.
Project Nos. 4632–013 and 015, Clifton Power Corporation
CAH–7.
Project Nos. 432–004 and 008, Carolina Power & Light Company
Project No. 2748–000, North Carolina Electric Membership Corporation
CAH–8.
Project No. 3272–002, Joseph M. Keating

Consent Agenda—Electric

CAE–1.
Docket No. ER94–1620–000, Delmarva Power & Light Company
CAE–2.
Docket No. ER94–1637–000, Cinergy Services, Inc. The Cincinnati Gas & Electric Company and PSI Energy, Inc.
CAE–3.
Omitted
CAE–4.
Omitted
CAE–5.
Docket Nos. ES94–37–000 and 001, Baltimore Gas and Electric Company
CAE–6.
Docket No. ER94–1151–000, Florida Power & Light Company
CAE–7.
Docket No. ER94–1448–001, Northeast Empire Limited Partnership #2
CAE–8.
Docket No. ER94–1370–001, Vermont Yankee Nuclear Power Corporation
CAE–9.
Docket No. ER94–1188–003, LG&E Power Marketing Inc.
Docket No. ER94–1380–003, Louisville Gas and Electric Company
CAE–10.
Docket No. ER91–576–001, Ocean State Power II
Docket Nos. ER92–747–001, ER92–748–001, ER93–397–001 and ER93–398–001, Ocean State Power; Ocean State Power II
CAE–11.
Docket Nos. EC93–6–002 and ER94–1015–001, Cincinnati Gas & Electric Company and PSI Energy, Inc.
CAE–12.
Docket No. EL94–78–000, Delmarva Power & Light Company

Consent Agenda Oil and Gas

CAG–1.
Omitted
CAG–2.
Docket No. CP94–68–002, Transcontinental Gas Pipe Line Corporation
CAG–3.
Docket No. GT94–67–000, Texas Eastern Transmission Corporation
CAG–4.
Omitted
CAG–5.
Omitted
CAG–6.
Docket Nos. RP94–369–000, 001 and RP94–373–000, Algonquin Gas Transmission Company
CAG–7.
Docket No. RP94–406–000, Carnegie Natural Gas Company
CAG–8.
Docket No. RP94–411–000, Tennessee Gas Pipeline Company
CAG–9.
Docket No. RP94–212–000, Columbia Gas Transmission Corporation
CAG–10.
Docket No. RP94–413–000, Tennessee Gas Pipeline Company
CAG–11.
Docket No. RP94–418–000, Carnegie Natural Gas Company
CAG–12.
Docket No. RP94–419–000, East Tennessee Natural Gas Company
CAG–13.
Omitted
CAG–14.
Docket Nos. RP94–421–000 and 001, National Fuel Gas Supply Corporation
CAG–15.
Docket No. RP94–422–000, Texas Gas Transmission Corporation
CAG–16.
Docket No. RP94–423–000, Texas Gas Transmission Corporation
CAG–17.
Docket Nos. RP94–424–000 and 001, ANR Pipeline Company
CAG–18.
Docket No. RP94–425–000, Tennessee Gas Pipeline Company
CAG–19.
Docket No. RP94–429–000, Southern Natural Gas Company
CAG–20.
Docket No. TM94–4–34–001, Florida Gas Transmission Company
CAG–21.
Docket No. TM95–2–2–000, East Tennessee Natural Gas Company
CAG–22.
Docket No. TM95–2–22–000, CNG Transmission Corporation
CAG–23.
Omitted
CAG–24.
Docket No. TM95–2–110–000, Iroquois Gas Transmission System, L.P.
CAG–25.
Docket No. RP93–55–002, Trailblazer Pipeline Company
CAG–26.
Docket No. RP94–397–000, K N Interstate Gas Transmission Company
CAG–27.
Docket No. RP94–404–000, Northern Border Pipeline Company
CAG–28.
Docket No. RP94–407–000, Mississippi River Transmission Corporation
CAG–29.
Omitted
CAG–30.
Docket No. RP94–410–000, Northwest Pipeline Corporation
CAG–31.
Docket Nos. RP94–414–000 and RP94–415–000, Northern Natural Gas Company
CAG–32.
Docket No. RP94–416–000, Northern Natural Gas Company
CAG–33.
Docket No. RP94–417–000, Koch Gateway Pipeline Company
CAG–34.

Docket No. RP94–427–000, High Island Offshore System
Docket No. RP94–426–000, U–T Offshore System

CAG–35.
Docket No. RP94–428–000, Natural Gas Pipeline Company of America

CAG–36.
Omitted

CAG–37.
Docket No. TM95–1–31–000, NorAm Gas Transmission Company

CAG–38.
Docket No. TM95–2–25–000, Mississippi River Transmission Corporation

CAG–39.
Docket No. TM95–2–28–000, Panhandle Eastern Pipeline Company

CAG–40.
Docket Nos. TA95–1–23–000 and TM95–2–23–000, Eastern Shore Natural Gas Company

CAG–41.
Docket No. PR94–16–000, Southern California Gas Company

CAG–42.
Omitted

CAG–43.
Omitted

CAG–44.
Omitted

CAG–45.
Docket Nos. RP94–430–000 and 001, Transcontinental Gas Pipe Line Corporation

CAG–46.
Docket No. RP94–286–000, Richmond Power Enterprise, L.P.

CAG–47.
Docket Nos. RP94–6–005, RP94–64–000 and RP94–154–000, Northern Natural Gas Company

CAG–48.
Docket No. RP94–60–006, Transwestern Pipeline Company

CAG–49.
Omitted

CAG–50.
Docket No. RP94–331–002, Questar Pipeline Company

CAG–51.
Docket No. RP94–343–001, NorAm Gas Transmission Company
Docket No. RP94–237–001, Arkansas Gas Consumers v. NorAm Gas Transmission Company

CAG–52.
Docket Nos. RP91–224–011, 012 and RP92–1–018, Northern Natural Gas Company

CAG–53.
Docket Nos. RP91–26–010, RP91–162–004, RP92–18–006, RP88–184–016, RP89–132–016 and RP90–81–008, El Paso Natural Gas Company

CAG–54.
Docket Nos. RP94–96–004, 005, 007, RP94–213–003, 004 and 005, CNG Transmission Corporation

CAG–55.
Docket No. RP93–3–011, Arkla Energy Resources Company

CAG–56.
Docket Nos. RP88–184–015, RP89–132–015, RP90–81–007, RP91–26–009, RP91–162–003 and RP92–18–015, El Paso Natural Gas Company

CAG–57.
Omitted

CAG–58.
Docket No. CP91–2677–004, Iroquois Gas Transmission System L.P.
Docket No. CP89–629–029, Tennessee Gas Pipeline Company
Docket No. CP89–661–027, Algonquin Gas Transmission Company

CAG–59.
Docket No. RP88–44–045, El Paso Natural Gas Company

CAG–60.
Docket Nos. RP94–246–000 and RP94–288–000, Williams Natural Gas Company
Docket No. RP94–355–000, City Utilities of Springfield, Missouri v. Williams Natural Gas Company

CAG–61.
Docket No. RP94–184–000, JMC Power Projects v. Tennessee Gas Pipeline Company
Docket No. RP94–261–002, Tennessee Gas Pipeline Company

CAG–62.
Docket No. GP91–8–004, Jack J. Grynberg, Individually and as General Partner for the Greater Green River Basin Drilling Program: 72–73 v. Rocky Mountain Natural Gas Company, a division of KN Energy, Inc.
Docket No. GP91–10–004, Rocky Mountain Natural Gas Company v. Jack J. Grynberg, Individually and as General Partner for the Greater Green River Basin Drilling Program: 72–73

CAG–63.
Docket No. IS94–27–000, Exxon Pipeline Company

CAG–64.
Docket No. GP90–7–000, Barbara T. Fasken

CAG–65.
Docket No. MG94–4–001, Alabama-Tennessee Natural Gas Company

CAG–66.
Docket Nos. MG91–4–001 and 002, East Tennessee Natural Gas Company
Docket Nos. MG90–4–001, 002, 003 and 004, Midwestern Gas Transmission Company
Docket Nos. MG88–19–005 and 006, Tennessee Gas Pipeline Company

CAG–67.
Docket No. CP92–508–006, National Fuel Gas Supply Corporation

CAG–68.
Docket No. CP94–207–001, Southern California Gas Company

CAG–69.
Omitted

CAG–70.
Omitted

CAG–71.
Omitted

CAG–72.
Omitted

CAG–73.
Docket No. CP93–281–001, Paiute Pipeline Company

CAG–74.
Omitted

CAG–75.
Docket Nos. CP93–340–001 and CP93–596–001, CNG Transmission Corporation
Docket No. CP94–146–001, CNG Producing Company
Docket No. CP94–148–001, CNG Transmission Corporation, CNG Producing Company and Otis Petroleum Corporation
Docket No. RP94–120–005, Koch Gateway Pipeline Company
Docket No. RP94–164–003, Trunkline Gas Company

CAG–76.
Docket No. CP93–567–001, Texas Gas Transmission Corporation

CAG–77.
Omitted

CAG–78.
Docket No. CP94–68–001, Transcontinental Gas Pipe Line Corporation

CAG–79.
Omitted

CAG–80.
Docket No. CP94–158–001, Pacific Gas and Electric Company

CAG–81.
Omitted

CAG–82.
Docket Nos. CP92–217–000, 001 and MT94–2–000, Texas-Ohio Pipeline, Inc.

CAG–83.
Omitted

CAG–84.
Docket No. CP94–74–000, NorAm Gas Transmission Company

CAG–85.
Omitted

CAG–86.
Omitted

CAG–87.
Docket Nos. CP94–6–000 and 001, Texas Eastern Transmission Corporation
Docket No. CP94–89–000, CNG Transmission Corporation

CAG–88.
Docket No. CP94–211–000, Transwestern Pipeline Company

CAG–89.
Omitted

CAG–90.
Docket No. CP87–418–003, Trunkline LNG Company

CAG–91.
Omitted

CAG–92.
Docket No. CP94–636–000, Newfield Exploration and Production Company
Docket No. CP94–567–000, Texas Eastern Transmission Corporation

CAG–93.
Docket No. CP94–699–000, Kern River Gas Transmission Company

CAG–94.
Omitted

CAG–95.
Omitted

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket No. RM93–19–000, Inquiry Concerning the Commission's Pricing Policy for Transmission Services Provided by Public Utilities Under the Federal Power Act. Statement of Policy.

E–2.

Docket No. RM94–20–000, Inquiry Concerning the Role of Power Pools and Alternative Institutions Under the Federal Power Act. Notice of Inquiry.

E–3.

Docket No. ER94–1288–000, PacifiCorp, the California Municipal Utilities Association, and the Independent Energy Producers (on behalf of Western Regional Transmission Association). The Commission will consider a proposal to establish a regional transmission group.

E–4.

Docket No. ER94–1381–000, Southwest Regional Transmission Association. The Commission will consider a proposal to establish a regional transmission group.

Oil and Gas Agenda

I. Pipeline Rate Matters

PR–1.

Docket No. RM94–2–000, Cost-of-Service Filing and Reporting Requirements for Oil Pipelines. Final Rule.

PR–2.

Docket No. RM94–1–000, Market-Based Ratemaking for Oil Pipelines. Final Rule.

II. Restructuring Matters

RS–1.

Reserved

III. Pipeline Certificate Matters

PC–1.

Omitted

Dated: October 19, 1994.

Lois D. Cashell,

Secretary.

[FR Doc. 94–26402 Filed 10–20–94; 12:54 pm]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From October 20th Open Meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the October 20, 1994, Open Meeting and previously listed in the Commission's Notice of October 13, 1994, published October 18, 1994 (59 FR 52586).

Item No., Bureau, and Subject

5—Common Carrier—Title: Amendment of the Commission's Rules to Establish New Personal Communications Services (GN Docket No. 90–314, RM–7140, 7175 and 7618). Summary: The Commission will consider ten petitions seeking reconsideration of the Broadband PCS Memorandum Opinion and Order.

Dated: October 19, 1994.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–26438 Filed 10–20–94; 3:47 pm]

BILLING CODE 6712–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1470]

TIME AND DATE: 10 a.m., October 26, 1994.

PLACE: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on September 21, 1994.

ACTION ITEMS:

New Business

A—Budget and Financing

A1. Adoption of Tennessee Valley Authority Financial Statements for Fiscal Year 1994

A2. Retention of Net Power Proceeds and Nonpower Proceeds and Payments to the U.S. Treasury in March 1995, Pursuant to Section 26 of the TVA Act

A3. Fiscal Year 1994 Tax-Equivalent Payments

E—Real Property

E1. Public Auction Sale of Approximately 12.38 Acres of Land on Pickwick Lake in Tishomingo County, Mississippi

E2. Deed Modification Affecting Approximately 0.02 Acre of Private Land on Watts Bar Lake in Rhea County, Tennessee

E3. Abandonment of Right-of-Way Affecting Approximately 21.7 Acres of TVA's Hiwassee-Chickamauga Transmission Line in Bradley County, Tennessee

E4. Easement Relocation Affecting Approximately 0.3 Acre of TVA's Burnsville-Booneville Transmission Line in Prentiss County, Mississippi

F—Unclassified

F1. Filing of Condemnation Cases

F2. Supplement to Contract No. TV–62313A with the State of Alabama for Continued Operation and Maintenance of Radiological Emergency Plans and Programs Required by the Federal Emergency Management Agency and the Nuclear Regulatory Commission

F3. Approval of Contract with Ecolochem, Inc., for Water Treatment Services at TVA Fossil and Nuclear Plants

F4. Approval of a Contract with Norfolk Southern Railway Company for Coal Transportation to Kingston Fossil Plant

F5. Supplement to Contract No. TV–87639V with American Technical Associates, Inc., for Temporary Technical and Professional Support Services for Special Projects and During Outage Periods

F6. Approval of Contract with General Electric Company for Installation of a Noncondensing Turbine Generator at Johnsonville Fossil Plant

INFORMATION ITEMS:

1. Approval of a 30-year Easement to Tennessee River Intrastate Gas Company, Inc., for a Gas Pipeline Affecting 0.4 Acre of Land on Wheeler Lake in Morgan County, Alabama
2. Approval of a Delegation of Authority to Vice President of Fossil Fuels to Award a One-Year Contract for Coal for Shawnee Fossil Plant to Arch Coal Sales Company
3. Approval of Supplements to Extend Seven Existing Contracts for Construction and Modification Services at TVA Offices in Chattanooga and Knoxville, Tennessee
4. Approval of a Contract with J.A. Jones Management Services to Provide Construction Services, Materials, Equipment, and Renovation Services of Existing Office Facilities

CONTACT PERSON FOR MORE INFORMATION: Ron Loving, Vice President, Governmental Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: October 19, 1994.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 94–26368 Filed 10–20–94; 10:56 am]

BILLING CODE 8120–08–M

federal register

Monday
October 24, 1994

Part II

Department of Housing and Urban Development

Office of the Secretary

Statutorily Mandated Designation of Qualified Census Tracts and Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–94–3821; FR–3796–N–01]

Statutorily Mandated Designation of Qualified Census Tracts and Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document provides revised designations of "Qualified Census Tracts" and "Difficult Development Areas" for purposes of the Low-Income Housing Tax Credit ("LIHTC") under section 42 of the Internal Revenue Code of 1986, and provides the methodology used by the United States Department of Housing and Urban Development ("HUD"). The new Qualified Census Tract designations are based on 1990 census data. The new Difficult Development Areas are based on FY 1994 Fair Market Rents ("FMRs"), FY 1994 income limits and 1990 census population counts as explained below.

EFFECTIVE DATE: The lists of Qualified Census Tracts and Difficult Development Areas are effective for allocations of credit made after December 31, 1994. In the case of a building described in Internal Revenue Code section 42(h)(4)(B), the list is effective if the bonds are issued and the building is placed in service after December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Harold J. Gross, Senior Tax Attorney, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–3260, or Kurt G. Usowski, Economist, Division of Economic Development and Public Finance, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708–0426. A telecommunications device for deaf persons (TDD) is available at (202) 708–9300. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Background

The U.S. Treasury Department and the Internal Revenue Service thereof are authorized to interpret and enforce the provisions of the Internal Revenue Code of 1986 (the "Code"), including the Low-Income Housing Tax Credit ("LIHTC") found at section 42 of the Code, as enacted by the Tax Reform Act of 1986 [Pub. L. 99–514], as amended by the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647], as amended by the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101–239], as amended by the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101–508], as amended by the Tax Extension Act of 1991 [Pub. L. 102–227], and as amended and made permanent by the Omnibus Budget Reconciliation Act of 1993 [Pub. L. 103–66]. The Secretary of HUD is required to designate Qualified Census Tracts and Difficult Development Areas by section 42(d)(5)(C) of the Code.

In order to assist in understanding HUD's mandated designation of Qualified Census Tracts and Difficult Development Areas for use in administering section 42 of the Code, a summary of section 42 is provided. The following summary does not purport to bind the Treasury or the IRS in any way, nor does it purport to bind HUD as HUD has no authority to interpret or administer the Code, except in those instances where it has a specific delegation.

Summary of Low Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (the "credit ceiling") is limited by population. Each state is allocated credit based on $1.25 per resident. Also, states may carry forward unused or returned credit for one year; if not used by then, credit goes into a national pool to be allocated to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low income housing building owners applying for the credit.

The credit is based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: either 20% of units must be rent-restricted and occupied by tenants with incomes no higher than 50% of the Area Median Gross Income ("AMGI"), or 40% of units must be rent restricted and occupied by tenants with incomes no higher than 60% of AMGI. The term "rent-restricted" means that gross rent, including an allowance for utilities, cannot exceed 30% of the tenant's imputed income limitation (i.e., 50% or 60% of AMGI). The rental restrictions remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low income character of the building for an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either (1) 70 percent of the "qualified basis" for new construction or substantial rehabilitation expenditures that are not federally subsidized or financed with tax-exempt bonds, or (2) 30 percent of the qualified basis for the acquisition of existing projects or projects involving federal subsidies or financing with tax-exempt bonds. The actual credit rates were fixed at 9 percent (70 percent present value) and 4 percent (30 percent present value) for 1987, and are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credit up to a deduction equivalent of $25,000. This equals $9,900 at the 39.6% maximum marginal tax rate. Individuals cannot use the credit against the alternative minimum tax. Corporations, other than S or professional service corporations, can use the credit against ordinary income tax. They cannot use the credit against the alternative minimum tax. These corporations can also use the losses from the project.

The qualified basis represents a fraction of the "eligible basis," based on the number of low income units in the building as a percentage of the total number of units, or based on the floor space of low income units as a percentage of the total floor space in the building. The eligible basis is the adjusted basis attributable to acquisition cost plus the amounts chargeable to capital account incurred prior to the end of the first taxable year in which the qualified low income building is placed in service. In the case of buildings located in designated Qualified Census Tracts or designated Difficult Development Areas, eligible basis is increased to 130% of what it would otherwise be. This means that the available credit will also be increased by 30%; if the 70% credit is available, it will effectively be increased to 91%.

Under section 42(d)(5)(C) of the Code, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50% of households have an income less than 60% of the AMGI. There is a limit on the amount of Qualified Census Tracts in any Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area

("PMSA") that may be designated to receive an increase in eligible basis: all of the designated census tracts within a given MSA/PMSA may not together contain more than 20% of the total population of the MSA/PMSA. For purposes of this rule, all non-metropolitan areas in a state are treated as if they constituted a single metropolitan area.

Section 42 defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. Again, limits apply. All designated Difficult Development Areas in MSAs/PMSAs may not contain more than 20% of the aggregate population of all MSAs/PMSAs, and all designated areas not in metropolitan areas may not contain more than 20% of the aggregate population of the non-metropolitan counties.

An amendment to section 42 made by section 11701(a)(2) of the Omnibus Budget Reconciliation Act of 1990 specifies that the income test for designation of Qualified Census Tracts should be based on the most recent census data. Changes in MSA/PMSA definitions made after HUD's last designation of Qualified Census Tracts and Difficult Development Areas necessitate this notice.

Explanation of HUD Designation Methodology

A. Qualified Census Tracts

In developing this revised list of LIHTC Qualified Census Tracts, HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget that applied as of June 30, 1993. Beginning with the 1990 census, tract-level data are available for the entire country. Generally, in metropolitan areas these geographic divisions are called census tracts while in most non-metropolitan areas the equivalent nomenclature is Block Numbering Area ("BNA"). BNAs are treated as census tracts for the purposes of this Notice.

The LIHTC Qualified Census Tracts were determined as follows:

1. A census tract must have 50% of its households with incomes below 60% of the AMGI to be eligible. HUD has defined 60% of AMGI income as 120% of HUD's Very Low Income Limits, that are based on 50% of area median family income, adjusted for high cost and low income areas. The 1994 income estimates were then deflated to 1989 dollars, so they would match the 1990 Census income data.

2. For each census tract, the percentage of households below the 60% income standard was determined by (a) calculating the average household size of the census tract, (b) applying the income standard after adjusting it to match the average household size, and (c) calculating the number of households with incomes below the income standard.

3. Qualified Census Tracts are those in which 50% or more of the households are income eligible and the population of all census tracts that satisfy this criterion does not exceed 20% of the total population of the respective area.

4. In areas where more than 20% of the population qualifies, census tracts are ordered from the highest percentage of eligible households to the lowest. Starting with the highest percentage, census tracts are included until the 20% limit is exceeded. If a census tract is excluded because it raises the percentage above 20%, then subsequent census tracts are considered to determine if a census tract with a smaller population could be included without exceeding the 20% limit.

B. Difficult Development Areas

In developing the list of Difficult Development Areas, HUD compared incomes with housing costs. HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget that applied as of June 30, 1993. The basis for these comparisons was the HUD income limits and Fair Market Rents ("FMRs") used for the section 8 Housing Assistance Payments Program. The procedure used in making these calculations follows:

1. For each MSA/PMSA and each non-metropolitan county, a ratio was calculated. This calculation used the FY 1994 two-bedroom FMR and the FY 1994 four-person income limit for Very Low Income households. The numerator of the ratio was the ratio of the area FMR to the FY 1994 U.S. average FMR. The denominator of the ratio was the ratio of 60% of the AMGI to 60% of the FY 1994 U.S. average of area median gross incomes.

2. The ratios of the FMR to the income limit were arrayed in descending order, separately, for MSAs/PMSAs and for non-metropolitan counties.

3. The Difficult Development Areas are those with the highest ratios cumulative to 20% of the 1990 population of all metropolitan areas and of all non-metropolitan counties.

4. The American Housing Survey data used to calculate the FMRs for New York City were adjusted by eliminating rent-controlled units. The FMRs were recalculated on the basis of the adjusted data. Because FMRs are based on recent mover rents, the FMRs generally reflect market rents rather than rent-controlled rents. In this case, the adjustment had no impact on the FMR.

C. Application of Caps to Qualified Census Tract and Difficult Development Area Determinations

In identifying Qualified Census Tracts and Difficult Development Areas, HUD applied various caps, or limitations, as noted above. For Qualified Census Tracts, section 42(d)(5)(C)(ii)(II) of the Code specifies that the population of eligible census tracts within a metropolitan area cannot exceed 20% of the population of that metropolitan area. Similarly, for census tracts/BNAs located outside metropolitan areas, the population of eligible census tracts/BNAs cannot exceed 20% of the population of the non-metropolitan counties in a State. The cumulative population of metropolitan Difficult Development Areas cannot exceed 20% of the cumulative population of all metropolitan areas and the cumulative population of non-metropolitan Difficult Development Areas cannot exceed 20% of the cumulative population of all non-metropolitan counties.

In applying these caps, HUD established procedures to deal with two issues: (1) How to proceed when the next logical choice for inclusion causes the cumulative area population to exceed the cap, and (2) how to treat small overruns of the caps. The remainder of this section explains the procedures.

1. Next choice causes cumulative population to exceed the cap. In applying the 20% cap to Qualified Census Tracts, HUD did not attempt to break a borderline census tract into smaller areas. Instead HUD looked tract-by-tract down the ranking beyond the excluded tract to see if a smaller tract could be included without exceeding the cap. The approach to Qualified Census Tracts differs from the treatment of difficult development metropolitan areas because of an important difference in how caps affect each of them. Section 42(d)(5)(C)(ii)(I) of the Code sets a simple test for eligibility for Qualified Census Tracts. If a tract's low income population exceeds 50% of its total population, then the tract is eligible unless it becomes necessary to eliminate the tract to satisfy the cap. There are many metropolitan areas and States in which the population of eligible areas falls short of 20%. When HUD had to eliminate tracts to satisfy the 20% cap, it was choosing among tracts that were

otherwise eligible. By comparison, section (42)(d)(5)(C) does not specify under what conditions an area is automatically a Difficult Development Area. HUD did not attempt to establish a threshold for eligibility. Instead HUD used the 20% cap as a limit on eligibility.

2. For both Qualified Census Tracts and Difficult Development Areas, HUD applied the caps strictly unless a strict application produced an anomalous result. Specifically, HUD stopped selecting areas when it was impossible to choose another area without exceeding the applicable cap. The only exception to this policy was when an excluded area contained either a large absolute population or a large percentage of the total population and its inclusion resulted in only a minor overrun of the cap. There were some cases where the inclusion of an area would result in a minimal overrun of the cap; but, in all of these cases, the exclusion of the area resulted in neither a large absolute loss of population nor a large short-fall below 20%. HUD believes the designation of these areas is consistent with the intent of the legislation. Some latitude is justifiable because it is impossible to really determine whether the 20% cap has been exceeded, as long as the apparent excess is small, due to measurement error. Despite the care and effort involved in a decennial census, it is recognized by the Census Bureau, and all users of the data, that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20% cap. In circumstances where a strict application of a 20% cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting small variances above the 20% limit.

Future Designations

Difficult Development Areas are designated annually as updated income and FMR data become available. Qualified Census Tracts will not be redesignated until year 2000 census data become available.

Other Matters

Environmental Review

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, that implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Impact on Small Entities

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities. The notice involves the designation of "Difficult Development Areas" and "Qualified Census Tracts" for use by political subdivisions of the States in allocating the LIHTC, as required by section 42 of the Internal Revenue Code, as amended. This notice places no new requirements on the States, their political subdivisions, or the applicants for the credit. This notice also details the technical methodology used in making such designations.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have any 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 notice is not subject to review under the order. The notice merely designates "Difficult Development Areas" and "Qualified Census Tracts" as required under section 42 of the Internal Revenue Code, as amended, for use by political subdivisions of the States in allocating the LIHTC. The notice also details the technical methodology used in making such designations.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being, and is not subject to review under the Order. The notice only designates "Difficult Development Areas" and "Qualified Census Tracts" as required under section 42 of the Internal Revenue Code, as amended, for use by political subdivisions of the States in allocating the LIHTC. The notice also details the technical methodology used in making such designations.

Dated: October 13, 1994.

Henry G. Cisneros,

Secretary.

IRS SECTION 42(d)(5)(C) DIFFICULT DEVELOPMENT AREAS—METROPOLITAN AREAS

State	Metropolitan area	Metropolitan area	Metropolitan area	Metropolitan area
AZ	Yuma, AZ			
CA	Los Angeles-Long Beach, CA	Salinas, CA	San Francisco, CA	San Luis Obispo-Atascadero.
	Santa Barbara-Santa Maria, CA	Santa Cruz-Watsonville, CA	Santa Rosa, CA	Ventura, CA.
CT	Bridgeport, CT	New Haven-Meriden, CT	Stamford-Norwalk, CT	
FL	Daytona Beach, FL	Fort Lauderdale, FL	Fort Pierce-Port Lucie, FL	Miami, FL.
	Punta Gorda, FL	Sarasota-Bradenton, FL	West Palm Beach-Boca Raton, FL.	
HI	Honolulu, HI			
MA	Barnstable-Yarmouth, MA	Boston, MA-NH	Fitchburg-Leominster, MA	Worcester, MA-CT.
ME	Portland, ME			
NH	Portsmouth-Rochester, NH-ME			
NJ	Atlantic-Cape May, NJ	Jersey City, NJ	Monmouth-Ocean, NJ	Vineland-Millville-Bridgeton.
NY	Nassau-Suffolk, NY	New York, NY	Newburgh, NY-PA	
PR	Aguadilla, PR	Arecibo, PR	Caguas, PR	Mayaguez, PR.
	Ponce, PR	San Juan-Bayamon, PR		
TX	El Paso, TX	Laredo, TX		

IRS SECTION 42(D)(5)(C) DIFFICULT DEVELOPMENT AREAS—NONMETROPOLITAN AREAS

State	County	County	County	County
	Pacific Islands			
AK	Bethel Census Area	Dillingham Census Area	Fairbanks North Star Borough	Haines Borough.
	Juneau Borough	Ketchikan Gateway Borough	Kodiak Island Borough	Lake and Peninsula Borough.
	Nome Census Area	North Slope Borough	Northwest Arctic Borough.	
AL	Coffee County	Macon County.		
AR	Baxter County	Conway County	Garland County	Hot Spring County.
	Lincoln County	Madison County	Mississippi County	Van Buren County.
AZ	Cochise County	Coconino County	Gila County	Santa Cruz County.
	Yavapai County			
CA	Alpine County	Amador County	Calaveras County	Del Norte County.
	Humboldt County	Imperial County	Inyo County	Kings County.
	Lake County	Mariposa County	Mendocino County	Mono County.
	Nevada County	Plumas County	San Benito County	Sierra County.
	Siskiyou County	Tuolumne County		
CO	Eagle County	Garfield County	Gilpin County	Grand County.
	La Plata County	Lake County	Ouray County	Pitkin County.
	Routt County	San Miguel County	Summit County	
CT	Litchfield County	Middlesex County	New London County	Windham County.
DE	Sussex County			
FL	Citrus County	Desoto County	Franklin County	Glades County.
	Hardee County	Hendry County	Highlands County	Indian River County.
	Monroe County	Okeechobee County	Taylor County	
GA	Bulloch County	Butts County	Camden County	Dawson County.
	Liberty County	Union County		
HI	Hawaii County	Kauai County	Maui County	
ID	Bonner County	Kootenai County		
KS	Riley County			
KY	Adair County	Bell County	Breckinridge County	Estill County.
	Floyd County	Fulton County	Johnson County	Lincoln County.
	Livingston County	Morgan County	Nicholas County	Perry County.
	Pike County	Pulaski County	Rowan County	
LA	Bienville Parish	Morehouse Parish	Natchitoches Parish	Sabine Parish.
	Tangipahoa Parish	Vernon Parish	West Feliciana Parish	
MA	Barnstable County	Dukes County	Franklin County	Hampden County.
	Hampshire County	Nantucket County		
MD	St. Mary's County	Wicomico County		
ME	Androscoggin County	Aroostook County	Cumberland County	Franklin County.
	Hancock County	Kennebec County	Knox County	Lincoln County.
	Oxford County	Piscataquis County	Sagadahoc County	Somerset County.
	Waldo County	Washington County	York County	
MO	Camden County			
MS	Adams County	Bolivar County	Claiborne County	Coahoma County.
	Copiah County	Forrest County	George County	Issaquena County.
	Lafayette County	Lauderdale County	Leflore County	Sunflower County.
	Tate County	Washington County	Yazoo County	
MT	Missoula County			
NC	Camden County	Dare County	Pasquotank County	Watauga County.
NH	Belknap County	Carroll County	Cheshire County	Grafton County.
	Hillsborough County	Merrimack County	Rockingham County	Strafford County.
	Sullivan County			
NM	Chaves County	Curry County	Lincoln County	McKinley County.
	Quay County	Rio Arriba County	San Miguel County	Taos County.
NV	Carson City	Churchill County	Douglas County	Mineral County.
	Pershing County			
NY	Clinton County	Columbia County	Cortland County	Essex County.
	Greene County	Hamilton County	Jefferson County	Schuyler County.
	Sullivan County	Tompkins County	Ulster County	
OR	Clatsop County	Coos County	Curry County	Deschutes County.
	Gilliam County	Hood River County	Jefferson County	Josephine County.
	Klamath County	Lincoln County		
PA	Monroe County	Northumberland County	Wayne County	
PR	All			
RI	Newport County	Washington County		
SC	Beaufort County	Fairfield County		
SD	Faulk County	Spink County		
TN	Haywood County	Trousdale County		
TX	Anderson County	Aransas County	Burleson County	Camp County.
	Gillespie County	Hopkins County	Hudspeth County	Jasper County.
	Kerr County	Kimble County	Kleberg County	Llano County.
	Nacogdoches County	Polk County	Rains County	Red River County.
	Robertson County	Tyler County	Val Verde County	Van Zandt County.
	Walker County	Washington County		

IRS Section 42(d)(5)(C) Difficult Development Areas—Nonmetropolitan Areas—Continued

State	County	County	County	County
UT	Daggett County	Iron County	Washington County	
VA	Caroline County	Frederick County	King and Queen County	Madison County.
	Orange County	Westmoreland County		
VI	Virgin Islands			
VT	Addison County	Bennington County	Lamoille County	Orange County.
	Rutland County	Washington County	Windham County	Windsor County.
WA	Clallam County	Douglas County	Grays Harbor County	Jefferson County.
	San Juan County	Skagit County		
WV	Greenbrier County	Taylor County	Upshur County	
WY	Teton County			

IRS Section 42(d)(5)(C) Qualified Census Tracts (1990 Data, MSA Definitions June 1993)—Metropolitan Areas

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Abilene, TX												
Taylor County	0102.00	0108.00	0110.00	0111.00	0118.00	0119.00						
Akron, OH												
Portage County	6015.00											
Summit County	5011.00	5012.00	5013.01	5013.02	5014.00	5015.00	5017.00	5018.00	5019.00	5024.00	5025.00	5031.00
	5032.00	5034.00	5038.00	5041.00	5042.00	5043.00	5044.00	5053.00	5056.00	5063.04	5065.00	5066.00
	5067.00	5068.00	5069.00	5074.00	5101.00	5103.01						
Albany, GA												
Dougherty County	0002.00	0008.00	0012.00	0013.00	0014.01	0014.02	0015.00	0106.01				
Albany-Schenectady-Troy, NY												
Albany County	0002.00	0005.01	0006.00	0007.00	0008.00	0011.00	0015.00	0025.00	0128.00	0129.00	0132.00	
Montgomery County	0701.00	0702.00	0706.00	0709.00								
Rensselaer County	0404.00	0407.00										
Schenectady County	0209.00	0210.01	0210.02									
Albuquerque, NM												
Bernalillo County	0006.02	0009.01	0012.00	0013.00	0014.00	0015.00	0016.00	0020.00	0028.00	0034.00	0044.01	0045.01
	0045.02	0048.00										
Sandoval County	0102.00											
Alexandria, LA												
Rapides Parish County	0111.00	0119.00	0120.00	0127.00	0129.00							
Allentown-Bethlehem-Easton, PA												
Carbon County	0204.00											
Lehigh County	0004.00	0005.00	0009.00	0010.00	0011.00	0013.00						
Northampton County	0105.00	0110.00	0144.00									
Altoona, PA												
Blair County	1016.00	1019.00										
Amarillo, TX												
Potter County	0106.00	0111.00	0113.00	0114.00	0120.00	0121.00	0122.00	0123.00	0126.00	0129.00		0131.00
	0140.00											
Anchorage, AK												
Anchorage County	0003.00	0004.00	0006.00	0009.01	0011.00							
Ann Arbor, MI												
Lenawee County	0613.00	0616.00										
Washtenaw County	4001.00	4002.00	4003.00	4005.00	4007.00	4008.00	4022.00	4026.00	4106.00	4107.00	4110.00	4111.00
	4112.00											
Anniston, AL												
Calhoun County	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00						
Appleton-Oshkosh-Neenah, WI												
Outagamie County	0101.00											
Winnebago County	0006.00	0007.00										
Asheville, NC												
Buncombe County	0001.00	0002.00	0009.00									
Madison County	0102.00	0103.00										

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Athens, GA												
Clarke County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0009.00	0016.98				
Atlanta, GA												
Carroll County	9905.00											
Cherokee County	0912.98											
Clayton County	0403.01											
Cobb County	0307.00	0308.00	0309.02									
Coweta County	1706.00											
DeKalb County	0205.00	0206.00	0207.00	0208.00	0209.00	0212.04	0221.00	0224.02	0227.00	0237.00		
Fulton County	0007.00	0008.00	0010.95	0017.00	0018.00	0020.00	0021.00	0022.00	0023.00	0024.00	0025.00	0026.00
	0028.00	0029.00	0031.00	0032.00	0033.00	0035.00	0036.00	0037.00	0038.00	0039.00	0040.00	0042.00
	0043.00	0044.00	0046.95	0048.00	0052.00	0055.01	0055.02	0056.00	0057.00	0058.00	0060.00	0062.00
	0063.00	0064.00	0066.01	0066.02	0067.00	0068.02	0071.00	0072.00	0073.00	0074.00	0075.00	0076.01
	0078.04	0081.02	0082.02	0083.01	0083.02	0084.00	0085.00	0086.01	0086.02	0087.01	0087.02	0088.00
	0106.01	0109.00	0110.00	0112.01								
Newton County	1004.00	1006.00										
Spalding County	1603.00	1604.00	1607.00	1608.00	1609.00							
Walton County	1103.00	1104.00										
Atlantic-Cape May, NJ												
Atlantic County	0008.00	0011.00	0014.00	0015.00	0018.00	0019.00	0023.00	0024.00	0025.00			
Cape May County	0214.00	0215.00										
Augusta-Aiken, GA-SC												
McDuffie County	9502.00											
Richmond County	0002.00	0003.00	0004.00	0006.00	0007.00	0008.00	0009.00	0014.00	0015.00	0104.00	0106.00	
Aiken County	0214.00	0218.00										
Austin-San Marcos, TX												
Bastrop County	9507.00											
Caldwell County	9602.00	9604.00	9607.00									
Hays County	0101.00	0102.00	0103.01	0103.02	0105.00							
Travis County	0003.01	0003.02	0004.02	0005.00	0006.01	0006.03	0006.04	0007.00	0008.02	0008.03	0008.04	0009.02
	0009.02	0010.00	0013.05	0013.07	0018.04	0018.05	0018.06	0018.12	0021.05	0021.09	0021.10	0021.11
	0023.04	0023.05	0023.06	0023.07	0023.10	0023.12	0024.13					
Williamson County	0210.00	0211.00	0214.02									
Bakersfield, CA												
Kern County	0004.00	0011.03	0012.00	0013.00	0014.00	0015.00	0016.00	0020.00	0021.00	0022.00	0023.02	0025.00
	0048.00											
Baltimore, MD												
Anne Arundel County	7028.00	7411.00										
Baltimore County	4016.01	4016.02	4084.00	4210.00	4507.00	4508.01	4508.02					
Baltimore City	0301.00	0302.00	0402.00	0501.00	0603.00	0604.00	0605.00	0701.00	0702.00	0703.00	0704.00	0802.00
	0803.01	0804.00	0805.00	0806.00	0807.00	0808.00	0904.00	0908.00	0909.00	1001.00	1002.00	1004.00
	1102.00	1203.00	1204.00	1205.00	1206.00	1301.00	1302.00	1303.00	1304.00	1401.00	1402.00	1403.00
	1501.00	1502.00	1504.00	1505.00	1506.00	1508.02	1512.00	1513.00	1601.00	1602.00	1603.00	1604.00
	1606.00	1702.00	1703.00	1801.00	1802.00	1803.00	1901.00	1902.00	1903.00	2001.00	2002.00	2003.00
	2004.00	2005.00	2101.01	2102.01	2301.00	2502.03	2502.04	2502.07	2503.01	2503.02	2503.03	2505.00
	2506.00	2603.03	2604.01	2604.02	2604.98	2606.04	2717.00	2718.01	2718.02	2804.04		
Bangor, ME												
Penobscot County	0001.00	0080.02										
Barnstable-Yarmouth, MA												
Barnstable County	0124.00											
Baton Rouge, LA												
Ascension Parish	0308.00	0309.00										
East Baton Rouge Parish	0001.00	0002.00	0003.00	0005.00	0006.01	0008.00	0009.00	0010.00	0011.04	0013.00	0014.00	0015.00
	0016.00	0021.00	0022.00	0024.00	0025.00	0028.00	0030.01	0030.02	0031.01	0031.02	0033.00	0040.07
West Baton Rouge Parish	0202.00											
Beaumont-Port Arthur, TX												
Jefferson County	0001.03	0007.00	0008.00	0009.00	0010.00	0014.00	0015.00	0017.00	0018.00	0019.00	0022.00	0023.00
	0024.00	0051.00	0052.00	0053.00	0054.00	0057.00	0058.00	0059.00	0060.00	0061.00	0062.00	
Orange County	0202.00											
Bellingham, WA												
Whatcom County	0006.00	0010.00										
Benton Harbor, MI												
Berrien County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0021.00	0022.00	0023.00	0205.00		

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Bergen Passaic, NJ												
Bergen County	0031.97	0280.98										
Passaic County	1251.97	1251.98	1752.00	1753.00	1754.00	1755.00	1758.00	1759.00	1804.00	1805.00	1806.00	1807.00
	1808.00	1809.00	1811.00	1813.00	1814.00	1815.00	1816.01	1816.02	1817.01	1817.02	1818.00	1820.00
	1821.00	1822.00	1823.00	1827.00	1828.00	1829.00	1830.00					
Billings, MT												
Yellowstone County	0001.00	0002.00	0003.00									
Biloxi-Gulfport-Pascagpula, MS												
Harrison County	0001.00	0003.00	0005.00	0018.00	0023.00							
Jackson County	0423.00											
Binghamton, NY												
Broome County	0002.00	0003.00	0005.00	0010.00	0011.00	0012.00	0013.00	0135.00				
Birmingham, AL												
Jefferson County	0003.00	0005.00	0007.00	0008.00	0012.00	0014.00	0015.00	0016.00	0023.03	0023.04	0024.00	0027.00
	0029.00	0030.02	0032.00	0033.00	0039.00	0040.00	0042.00	0045.00	0051.01	0055.00	0057.01	0101.00
	0103.01	0103.02	0104.01	0106.02	0130.02	0131.00						
Bloomington, IN												
Monroe County	0001.00	0002.02	0006.00	0016.00								
Bloomington-Normal, IL												
McLean County	0001.01	0002.00	0013.02	0015.00	0016.00							
Boise City, ID												
Ada County	0001.00	0011.00										
Canyon County	0201.00	0202.00	0213.00	0214.00	0220.00							
Boston, MA–NH												
Bristol County	6138.00											
Essex County	2043.00	2060.00	2061.00	2062.00	2068.00	2069.00	2070.00	2072.00	2108.00	2215.00		
Middlessex County	3522.00	3524.00	3527.00									
Norfolk County	4102.00	4178.02	7621.95									
Plymouth County	5071.02											
Suffolk County	0004.01	0006.02	0007.01	0007.02	0101.01	0101.02	0102.00	0103.00	0104.01	0104.02	0302.00	0402.00
	0501.00	0502.00	0503.00	0504.00	0506.00	0507.00	0607.00	0608.00	0610.00	0611.00	0613.00	0701.00
	0702.00	0704.00	0711.00	0712.00	0801.00	0802.00	0803.00	0804.00	0805.00	0806.00	0807.00	0808.00
	0810.00	0812.00	0813.00	0815.00	0816.00	0817.00	0818.00	0821.00	0902.00	0903.00	0904.00	0905.00
	0906.00	0907.00	0913.00	0915.00	0916.00	0918.00	0924.00	1001.00	1002.00	1101.01	1102.00	1205.00
	1602.00	1604.00	1605.00	1707.00								
Boulder-Longmont, CO												
Boulder County	0122.02	0122.04	0122.05	0123.00	0124.01	0126.02	0126.04	0134.01				
Brazoria, TX												
Brazoria, County	0628.00											
Bremerton, WA												
Kitsap County	0808.98	0810.00	0813.00									
Brideport, CT												
Fairfield County	0703.00	0705.00	0706.00	0708.00	0709.00	0712.00	0713.00	0714.00	0715.00	0716.00	0717.00	0736.00
	0738.00	0739.00	0740.00	0741.00	0742.00	0743.00	0744.00					
Brockton, MA												
Plymouth County	5103.00	5104.00	5109.00	5112.00	5114.00							
Brownsville-Harlingen-San Benito, TX												
Cameron County	0109.00	0111.00	0126.03	0131.05	0133.02	0134.01	0138.01	0138.02	0139.01	0139.02	0140.01	0140.02
	0141.00											
Bryan-College Station, TX												
Brazos County	0005.00	0014.00	0015.00	0017.00								
Buffalo-Niagara Falls, NY												
Erie County	0003.00	0004.00	0012.00	0013.01	0013.02	0014.02	0015.00	0016.00	0020.00	0025.01	0025.02	0026.00
	0027.01	0027.02	0028.00	0029.00	0031.00	0032.01	0032.02	0033.02	0034.00	0035.00	0036.00	0040.02
	0044.02	0055.00	0056.00	0060.00	0061.00	0062.02	0064.00	0069.00	0070.00	0071.01	0071.02	0072.01
	0119.01	0121.00	0122.00	0148.04								
Niagara County	0202.00	0205.00	0209.00	0211.00	0212.00	0213.00	0237.00					

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Burlington, VT												
Chittenden County	0003.00	0004.00	0005.00	0010.00								
Franklin County	0107.00											
Canton-Massillon, OH												
Stark County	7001.00	7015.00	7017.00	7018.00	7023.00	7101.00	7104.00	7105.00	7138.00			
Casper, WY												
Natrona County	0001.00	0002.00	0013.02									
Cedar Rapids, IA												
Linn County	0019.00	0020.00	0022.00	0027.00								
Champaign-Urbana, IL												
Champaign County	0001.00	0002.00	003.00	0004.00	0014.00	0051.00	0052.00	0059.00	0060.00			
Charleston-North Charleston, SC												
Charleston County	0004.00	0006.00	0007.00	0009.00	0010.00	0011.00	0012.00	0013.00	0014.00	0015.00	0033.00	0037.00
	0041.00	0043.00	0044.00	0045.00								
Charleston, WV												
Kanawha County	0001.00	0007.00	0009.00	0012.00								
Charlotte-Gastonia-Rock Hill, NC–SC												
Cabarrus County	0421.00											
Gaston County	0319.00	0320.00	0330.00									
Mecklenburg County	0001.00	0003.00	0004.00	0006.00	0008.00	0009.00	0023.00	0037.00	0039.01	0039.02	0045.00	0047.00
	0048.00	0050.00	0051.00	0052.00								
Rowan County	0501.00	0504.00	0508.00									
York County	0013.02	0604.02	0605.01	0616.01	0617.02							
Charlottesville, VA												
Albemarle County	0115.98											
Charlottesville City	0002.01	0002.98	0004.97	0006.00								
Chattanooga, TN–GA												
Hamilton County	0002.00	0003.00	0004.00	0008.00	0011.00	0012.00	0014.00	0015.00	0016.00	0019.00	0020.00	0021.00
	0023.00	0025.00	0027.00	0031.00								
Cheyenne, WY												
Laramie County	0001.00											
Chicago, IL												
Cook County	0101.00	0105.00	0303.00	0311.00	0312.00	0315.00	0316.00	0317.00	0320.00	0321.00	0514.00	0605.00
	0707.00	0708.00	0804.00	0805.00	0808.00	0819.00	1401.00	1402.00	1406.00	2005.00	2108.00	2109.00
	2205.00	2207.00	2208.00	2209.00	2210.00	2211.00	2213.00	2214.00	2215.00	2217.00	2223.00	2224.00
	2225.00	2226.00	2227.00	2228.00	2229.00	2301.00	2302.00	2303.00	2304.00	2305.00	2307.00	2329.00
	2310.00	2312.00	2315.00	2316.00	2317.00	2318.00	2401.00	2406.00	2407.00	2408.00	2409.00	2410.00
	2411.00	2413.00	2414.00	2415.00	2416.00	2417.00	2418.00	2420.00	2421.00	2422.00	2423.00	2425.00
	2426.00	2427.00	2429.00	2431.00	2432.00	2433.00	2434.00	2501.00	2509.00	2510.00	2511.00	2514.00
	2515.00	2517.00	2518.00	2519.00	2520.00	2521.00	2522.00	2601.00	2602.00	2603.00	2604.00	2605.00
	2606.00	2607.00	2608.00	2609.00	2610.00	2701.00	2702.00	2703.00	2704.00	2705.00	2706.00	2707.00
	2708.00	2709.00	2710.00	2711.00	2712.00	2713.00	2714.00	2715.00	2716.00	2717.00	2718.00	2719.00
	2803.00	2804.00	2805.00	2806.00	2807.00	2808.00	2809.00	2810.00	2811.00	2812.00	2813.00	2814.00
	2815.00	2816.00	2817.00	2818.00	2826.00	2827.00	2828.00	2831.00	2832.00	2836.00	2837.00	2838.00
	2839.00	2840.00	2841.00	2842.00	2843.00	2902.00	2903.00	2904.00	2905.00	2906.00	2908.00	2909.00
	2910.00	2911.00	2912.00	2913.00	2914.00	2915.00	2916.00	2917.00	2918.00	2919.00	2920.00	2922.00
	2923.00	2924.00	2925.00	2926.00	3001.00	3002.00	3003.00	3004.00	3005.00	3006.00	3007.00	3008.00
	3009.00	3010.00	3011.00	3012.00	3013.00	3014.00	3015.00	3016.00	3017.00	3018.00	3101.00	3102.00
	3105.00	3106.00	3107.00	3108.00	3109.00	3110.00	3111.00	3112.00	3113.00	3114.00	3204.00	3301.00
	3302.00	3303.00	3304.00	3402.00	3404.00	3405.00	3406.00	3502.00	3504.00	3506.00	3507.00	3511.00
	3512.00	3513.00	3514.00	3515.00	3601.00	3602.00	3603.00	3604.00	3605.00	3701.00	3702.00	3703.00
	3704.00	3801.00	3802.00	3803.00	3804.00	3805.00	3806.00	3807.00	3808.00	3809.00	3810.00	3811.00
	3812.00	3813.00	3814.00	3815.00	3816.00	3817.00	3818.00	3819.00	3820.00	3901.00	3902.00	3903.00
	3904.00	4001.00	4002.00	4003.00	4004.00	4005.00	4006.00	4007.00	4008.00	4102.00	4201.00	4202.00
	4203.00	4204.00	4205.00	4206.00	4207.00	4208.00	4209.00	4210.00	4211.00	4212.00	4302.00	4303.00
	4304.00	4305.00	4306.00	4308.00	4310.00	4313.00	4401.00	4501.00	4601.00	4602.00	4603.00	4607.00
	4608.00	4609.00	4610.00	4901.00	4902.00	4910.00	4913.00	4914.00	5002.00	5105.00	5201.00	5202.00
	5301.00	5401.00	5602.00	5901.00	6003.00	6007.00	6008.00	6009.00	6013.00	6101.00	6102.00	6103.00
	6104.00	6106.00	6110.00	6111.00	6112.00	6113.00	6114.00	6115.00	6116.00	6117.00	6118.00	6119.00
	6120.00	6121.00	6122.00	6301.00	6306.00	6601.00	6602.00	6603.00	6606.00	6609.00	6701.00	6702.00
	6703.00	6705.00	6706.00	6707.00	6708.00	6709.00	6710.00	6711.00	6712.00	6713.00	6715.00	6716.00

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
	6716.00	6801.00	6802.00	6803.00	6804.00	6805.00	6806.00	6807.00	6808.00	6809.00	6810.00	6811.00
	6812.00	6813.00	6814.00	6901.00	6902.00	6903.00	6904.00	6906.00	6908.00	6909.00	6911.00	6912.00
	6915.00	7102.00	7103.00	7107.00	7109.00	8133.00	8175.00	8215.00	8236.03	8243.00	8260.00	8269.01
	8269.02	8273.00	8274.00	8290.00	8291.00	8297.00	.....	.....	.....	.....	.....	.....
DeKalb County	0010.00	0011.00	0012.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Kane County	8512.00	8515.00	8536.00	8537.00	8546.98	.....	.....	.....	.....	.....	.....	.....
Lake County	8623.00	8628.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Will County	8813.00	8819.00	8820.00	8825.00	.....	.....	.....	.....	.....	.....	.....	.....
Chico-Paradise, CA												
Butte County	0006.02	0028.00	0030.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cincinnati, OH–KY–IN												
Campbell County	0501.00	0502.00	0504.00	0505.00	0506.00	0512.00	.....	.....	.....	.....	.....	.....
Kenton County	0603.00	0604.00	0605.00	0606.00	0607.00	0609.00	0620.00	0651.00	.....	.....	.....	.....
Pendleton County	9903.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Brown County	9517.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Hamilton County	0002.00	0003.01	0003.02	0004.00	0007.00	0008.00	0009.00	0010.00	0011.00	0014.00	0015.00	0016.00
	0017.00	0021.00	0022.00	0023.00	0025.00	0026.00	0028.00	0030.00	0032.00	0033.00	0034.00	0035.00
	0036.00	0037.00	0038.00	0039.00	0043.00	0044.00	0047.00	0055.00	0066.00	0067.00	0068.00	0069.00
	0074.00	0077.00	0078.00	0080.00	0085.02	0086.01	0087.00	0089.00	0091.00	0093.00	0094.00	0103.00
	0219.00	0227.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Warren County	0304.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Clarksville-Hopkinsville, TN–KY												
Montgomery County	1008.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cleveland-Lorain-Elyria, OH												
Ashabula County	0001.03	0004.00	0007.01	0007.04	.....	.....	.....	.....	.....	.....	.....	.....
Cuyahoga County	1011.01	1012.00	1013.00	1016.00	1017.00	1018.00	1019.00	1025.00	1026.00	1027.00	1028.00	1029.00
	1031.00	1032.00	1033.00	1034.00	1035.00	1037.00	1038.00	1039.00	1041.00	1042.00	1043.00	1044.00
	1045.00	1046.00	1047.01	1047.02	1048.00	1049.00	1051.00	1053.00	1055.00	1056.01	1072.00	1073.00
	1074.00	1075.00	1077.00	1079.00	1081.00	1082.00	1083.00	1084.00	1085.00	1087.00	1088.00	1089.00
	1093.00	1096.00	1097.00	1098.00	1104.00	1105.00	1106.00	1107.00	1108.00	1111.00	1112.00	1113.00
	1114.01	1114.02	1115.00	1116.00	1117.00	1118.00	1119.02	1121.00	1122.00	1123.00	1124.00	1125.00
	1126.00	1127.00	1128.00	1129.00	1131.00	1132.00	1133.00	1134.00	1135.00	1136.00	1137.00	1138.00
	1139.00	1141.00	1142.00	1143.00	1144.00	1145.00	1146.00	1147.00	1148.00	1149.00	1151.00	1152.00
	1153.00	1154.00	1155.00	1158.00	1161.00	1162.00	1163.00	1164.00	1165.00	1166.00	1168.00	1169.00
	1172.01	1173.00	1181.00	1182.00	1183.00	1184.00	1185.00	1186.01	1186.02	1187.00	1189.00	1191.00
	1192.02	1193.00	1194.02	1195.02	1196.00	1197.02	1198.00	1199.00	1201.00	1202.00	1204.00	1205.00
	1206.00	1207.01	1208.01	1208.02	1212.00	1213.00	1214.01	1244.00	1275.00	1503.00	1504.00	1511.00
	1512.00	1513.00	1514.00	1515.00	1517.00	1518.00	1527.01	1915.00	1939.00	.....	.....	.....
Lake County	2059.06	2061.97	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Loraine County	0223.00	0228.00	0231.00	0232.00	0233.00	0238.00	0708.00	0714.00	.....	.....	.....	.....
Colorado Springs, CO												
El Paso County	0003.02	0022.00	0023.00	0026.00	0029.00	.....	.....	.....	.....	.....	.....	.....
Columbia, MO												
Boone County	0001.00	0002.00	0003.00	0004.00	0005.00	0008.00	0009.00	.....	.....	.....	.....	.....
Columbia, SC												
Lexington County	0215.97	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Richland County	0001.00	0002.00	0003.00	0005.00	0009.00	0010.00	0013.00	0014.00	0015.00	0016.00	0018.00	0019.00
	0020.01	0020.02	0028.00	0105.02	0109.00	0117.01	.....	.....	.....	.....	.....	.....
Columbus, GA–AL												
Russell County	0301.00	0302.00	0308.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Muscogee County	0001.00	0005.00	0013.00	0014.00	0015.00	0016.00	0024.00	0025.00	0027.00	0028.00	0030.00	0032.00
Columbus, OH												
Fairfield County	0317.00	0319.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Franklin County	0007.30	0009.20	0011.10	0011.20	0012.00	0013.00	0014.00	0015.00	0016.00	0017.00	0018.00	0022.00
	0023.00	0025.00	0026.00	0027.10	0028.00	0029.10	0030.00	0036.00	0037.00	0038.00	0039.00	0040.00
	0041.00	0042.00	0043.00	0044.00	0050.00	0051.00	0053.00	0054.10	0054.20	0056.10	0056.20	0060.00
	0061.00	0074.10	0075.11	0075.20	0075.34	0075.40	0078.20	0083.50	0087.30	.....	.....	.....
Licking County	7501.00	7504.00	7507.00	7525.00	7583.00	.....	.....	.....	.....	.....	.....	.....
Corpus Christi, TX												
Nueces County	0003.00	0004.00	0005.00	0009.00	0010.00	0011.00	0012.00	0013.00	0015.00	0016.01	0056.02	.....
San Patricio County	0108.00	0113.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cumberland, MD-WV												
Allegany County	0005.00	0007.00	0009.00	0010.00	.....	.....	.....	.....	.....	.....	.....	.....

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Mineral County	0107.00											
Dallas, TX												
Collin County	0309.00											
Dallas County	0004.01	0004.03	0004.05	0008.00	0009.00	0010.02	0014.00	0015.02	0015.03	0015.04	0016.00	0019.00
	0020.00	0022.01	0022.02	0024.00	0025.00	0027.01	0027.02	0028.00	0029.00	0031.02	0033.00	0034.00
	0035.00	0036.00	0037.00	0038.00	0039.01	0039.02	0040.00	0041.00	0043.00	0046.00	0047.00	0048.00
	0049.00	0050.00	0051.00	0055.00	0056.00	0057.00	0060.02	0067.00	0068.00	0069.00	0086.01	0086.02
	0087.01	0087.03	0087.04	0087.05	0088.02	0089.00	0093.03	0093.04	0100.00	0101.01	0101.02	0102.00
	0103.00	0104.00	0105.00	0106.00	0108.02	0111.05	0114.01	0114.02	0115.00	0116.02	0159.00	0166.05
	0188.02	0190.13	0192.09									
Denton County	0206.01	0207.00	0209.00	0210.00	0211.00	0212.00	0213.01					
Ellis County	0604.00	0605.00	0612.00	0616.00								
Henderson County	9505.00	9507.00	9510.00	9512.00	9515.98							
Hunt County	9601.00	9605.00	9606.00	9608.00	9609.00							
Kaufman County	0505.00	0510.00										
Danbury, CT												
Fairfield County	2101.00	2306.00										
Danville, VA												
Danville City	0005.00	0006.00	0011.00	0016.98								
Davenport-Moline-Rock Island, IA–IL												
Henry County	0308.00											
Rock Island County	0206.00	0223.00	0224.00	0226.00	0227.00	0234.00	0236.00	0244.00				
Scott County	0105.00	0106.00	0107.00	0108.00	0109.00	0114.00						
Dayton-Springfield, OH												
Clark County	0001.00	0002.00	0003.00	0004.00	0009.01	0009.02	0012.00					
Greene County	2403.02											
Montgomery County	0003.00	0007.00	0010.00	0012.00	0013.00	0014.00	0015.00	0017.00	0018.00	0019.00	0021.00	0022.00
	0034.00	0035.00	0036.00	0037.00	0039.00	0040.00	0041.00	0042.00	0043.00	0047.00	0602.00	0603.00
	0702.01	0703.00	0805.00									
Daytona Beach, FL												
Volusia County	0814.00	0815.00	0819.00	0820.00	0821.00	0905.00						
Decatur, AL												
Morgan County	0005.00											
Decatur, IL												
Macon County	0001.00	0002.00	0005.98	0006.00	0007.00	0008.00	0009.00					
Denver, CO												
Adams County	0078.00	0079.00	0087.03	0089.52	0096.06							
Arapahoe County	0049.50	0055.52	0057.00	0058.89	0065.01	0073.00						
Denver County	0002.02	0004.02	0005.02	0006.00	0007.01	0007.02	0008.00	0009.01	0009.03	0010.00	0011.01	0011.02
	0015.00	0016.00	0017.01	0018.00	0019.00	0020.00	0021.00	0023.00	0024.01	0024.02	0025.00	0026.01
	0026.02	0027.01	0027.03	0028.02	0031.01	0031.02	0035.00	0036.01	0036.02	0036.03	0041.01	0041.05
	0045.01	0045.02	0054.02	0083.13								
Jefferson County	0104.05	0115.50										
Des Moines, IA												
Polk County	0011.00	0017.00	0026.00	0027.00	0048.00	0049.00	0050.00	0051.00	0052.00			
Detroit, MI												
Mocomb County	2400.00	2450.00	2471.00	2638.00								
Monroe County	8318.00	8321.00										
Oakland County	1412.00	1416.00	1417.00	1418.00	1421.00	1422.00	1423.00	1424.00	1425.00	1427.00	1724.00	1725.00
St. Clair County	6200.00	6210.00	6230.00	6240.00	6250.00							
Wayne County	5004.00	5005.00	5006.00	5020.00	5034.00	5035.00	5036.00	5037.00	5039.00	5040.00	5041.00	5042.00
	5043.00	5044.00	5045.00	5046.00	5047.00	5048.00	5052.00	5053.00	5063.00	5064.00	5065.00	5070.00
	5071.00	5072.00	5073.00	5074.00	5075.00	5076.00	5077.00	5078.00	5079.00	5080.00	5102.00	5103.00
	5104.00	5105.00	5106.00	5107.00	5108.00	5109.00	5111.00	5112.00	5113.00	5114.00	5115.00	5116.00
	5117.00	5121.00	5122.00	5123.00	5124.00	5126.00	5129.00	5132.00	5134.00	5135.00	5136.00	5139.00
	5140.00	5141.00	5142.00	5143.00	5145.00	5146.00	5147.00	1548.00	5149.00	5150.00	5151.00	5152.00
	5153.00	5155.00	5156.00	5161.00	5162.00	5163.00	5164.00	5166.00	5167.00	5168.00	5169.00	5173.00
	5174.00	5175.00	5176.00	5178.00	5180.00	5181.00	5183.00	5184.00	5185.00	5186.00	5187.00	5188.00
	5201.00	5202.00	5203.00	5204.00	5205.00	5206.00	5207.00	5209.00	5211.00	5212.00	5213.00	5214.00
	5215.00	5218.00	5219.00	5220.00	5221.00	5222.00	5223.00	5224.00	5231.00	5232.00	5233.00	5234.00
	5235.00	5236.00	5237.00	5238.00	5240.00	5241.00	5242.00	5243.00	5245.00	5247.00	5248.00	5251.00
	5252.00	5253.00	5254.00	5255.00	5256.00	5257.00	5258.00	5260.00	5261.00	5262.00	5263.00	5264.00
	5265.00	5301.00	5303.00	5304.00	5307.00	5308.00	5310.00	5311.00	5313.00	5314.00	5315.00	5316.00

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
	5317.00	5318.00	5319.00	5322.00	5324.00	5325.00	5326.00	5327.00	5330.00	5331.00	5332.00	5333.00
	5334.00	5335.00	5336.00	5337.00	5341.00	5342.00	5343.00	5344.00	5345.00	5346.00	5350.00	5352.00
	5361.00	5363.00	5364.00	5365.00	5366.00	5367.00	5368.00	5370.00	5371.00	5372.00	5373.00	5377.00
	5378.00	5390.00	5412.00	5423.00	5435.00	5436.00	5437.00	5438.00	5439.00	5442.00	5451.00	5452.00
	5453.00	5454.00	5465.00	5469.00	5521.00	5522.00	5523.00	5524.00	5525.00	5526.00	5530.00	5531.00
	5532.00	5533.00	5534.00	5535.00	5536.00	5537.00	5685.00	5704.00	5706.00	5707.00	5708.00	5735.00
	5736.00	5791.00	5792.00	5793.00	5795.00	5796.00	5798.00	5848.00	5860.00	.....	.....	.....
Dothan, AL												
Dale County	0206.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Houston County	0406.00	0412.00	0413.00	0414.00	.....	.....	.....	.....	.....	.....	.....	.....
Dubuque, IA												
Dubuque County	0001.00	0002.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Duluth-Superior, MN–WI												
St. Louis County	0016.00	0017.00	0018.00	0019.00	0025.00	0028.00	0032.00	0130.00	0137.01	.....	.....	.....
Douglas County	0201	0202	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Dutchess County, NY												
Dutchess County	2201.00	2202.00	2203.00	2204.00	2205.00	2206.00	6300.00	6500.00	.....	.....	.....	.....
Eau Claire, WI												
Eau Claire County	0011.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
El Paso, TX												
El Paso County	0016.00	0017.00	0018.00	0019.00	0020.00	0021.00	0022.00	0026.00	0028.00	0029.00	0030.00	0032.00
	0039.03	0103.10	0104.01	0104.03	.....	.....	.....	.....	.....	.....	.....	.....
Elkhart-Goshen, IN												
Elkhart County	0027.00	0028.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Elmira, NY												
Chemung County	0006.00	0007.00	0008.00	0010.00	.....	.....	.....	.....	.....	.....	.....	.....
Erie, PA												
Erie County	0001.00	0003.00	0004.00	0007.00	0008.00	0012.00	0013.00	0014.00	0015.00	0018.00	0019.00	.....
Eugene-Springfield, OR												
Lane County	0038.00	0039.00	0040.00	0042.00	0048.00	.....	.....	.....	.....	.....	.....	.....
Evansville-Henderson, IN–KY												
Vanderburgh County	0011.00	0012.00	0014.00	0016.00	0017.00	0019.00	0020.00	0025.00	0027.00	0104.98	.....	.....
Henderson County	0201.00	0202.00	0203.00	0204.00	.....	.....	.....	.....	.....	.....	.....	.....
Fargo-Moorhead, ND–MN												
Clay County	0203.00	0204.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cass County	0003.00	0007.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Fayetteville, NC												
Cumberland County	0001.00	0002.00	0003.00	0013.00	.....	.....	.....	.....	.....	.....	.....	.....
Fayetteville-Springdale-Rogers, AR												
Washington County	0107.01	0108.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Fitchburg-Leonminster, MA												
Worcester County	7105.00	7107.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Flint, MI												
Genesee County	0001.00	0002.00	0004.00	0006.00	0008.00	0010.00	0011.00	0014.00	0015.00	0017.00	0018.00	0020.00
	0021.00	0022.00	0025.00	0028.00	0029.00	0032.00	0034.00	0037.00	0038.00	0103.04	0122.02	.....
Florence, AL												
Colbert County	0203.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lauderdale County	0101.00	0102.00	0103.00	0107.00	.....	.....	.....	.....	.....	.....	.....	.....
Florence, SC												
Florence County	0007.00	0008.00	0009.00	0022.01	.....	.....	.....	.....	.....	.....	.....	.....
Fort Collins-Loveland, CO												
Larimer County	0001.00	0005.02	0006.00	0013.03	0017.04	0020.03	.....	.....	.....	.....	.....	.....
Fort Lauderdale, FL												
Broward County	0304.00	0305.00	0306.00	0410.00	0411.00	0414.00	0415.00	0416.00	0417.00	0425.00	0805.00	0921.00
	1004.00	1005.00	1201.00	.....	.....	.....	.....	.....	.....	.....	.....	.....

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Fort Myers-Cape Coral, FL												
Lee County	0001.00	0003.02	0005.01	0005.02								
Fort Pierce-Port Lucie, FL												
St. Lucie County	0001.00	0002.00	0003.00									
Fort Smith, AR-OK												
Sebastian County	0003.00	0009.01										
Fort Wayne, IN												
Allen County	0010.00	0012.00	0013.00	0014.00	0016.00	0017.00	0018.00	0019.00	0021.00	0027.00	0028.98	
Fort Worth-Arlington, TX												
Johnson County	1308.00	1309.00										
Tarrant County	1002.01	1002.02	1003.00	1004.00	1005.01	1005.02	1008.00	1009.00	1010.00	1011.00	1012.02	1014.03
	1016.00	1017.00	1018.00	1020.00	1025.00	1029.00	1030.00	1031.00	1032.00	1033.00	1034.00	1035.00
	1036.01	1037.01	1037.02	1038.00	1039.00	1040.00	1041.00	1045.00	1045.02	1045.03	1046.01	1046.02
	1046.03	1046.04	1050.06	1053.00	1061.02	1062.02	1066.00	1218.00	1222.00	1223.00		
Fresno, CA												
Fresno County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0009.00	0010.00	0011.00	0013.00	0014.05	0024.00
	0025.00	0028.00	0042.01	0054.03	0065.00	0068.01	0071.00					
Madera County	0008.00	0009.00										
Gadsden, AL												
Etowah County	0001.00	0003.00	0007.00	0008.00								
Gainesville, FL												
Alachua County	0001.00	0002.00	0006.00	0007.00	0008.00	0009.00	0019.02					
Galveston-Texas City, TX												
Galveston County	1222.00	1225.00	1226.00	1230.00	1233.00	1235.00	1236.00	1237.00	1238.00	1240.00	1241.00	1246.00
	1248.00	1249.00	1254.00									
Gary, IN												
Lake County	0104.00	0107.00	0108.00	0109.00	0110.00	0111.00	0112.00	0113.00	0114.00	0117.00	0118.00	0119.00
	0120.00	0122.00	0123.00	0125.00	0126.00	0127.00	0128.00	0129.00	0206.00	0208.00	0301.00	0302.00
	0303.00	0304.00	0310.00	0412.00	0413.01							
Glens Falls, NY												
Warren County	0705.00											
Goldsboro, NC												
Wayne County	0017.00	0018.00										
Grand Forks, ND–MN												
Grand Forks County	0103.00	0105.00	0106.00									
Grand Rapids-Muskegon-Holland, MI												
Kent County	0015.00	0020.00	0021.00	0025.00	0026.00	0028.00	0030.00	0031.00	0032.00	0036.00	0038.00	0039.00
Muskegon County	0001.00	0002.00	0003.00	0005.00	0006.01	0006.02	0011.00	0012.00	0013.00	0014.01	0014.02	
Great Falls, MT												
Cascade County	0006.00	0007.00										
Greeley, CO												
Weld County	0001.00	0002.00	0006.00	0007.01								
Green Bay, WI												
Brown County	0001.00	0008.00	0009.00	0010.00	0012.00							
Greensboro—Winston-Salem—High Point, NC												
Alamance County	0201.01											
Davidson County	0614.00											
Forsyth County	0001.00	0002.00	0003.01	0003.02	0004.00	0005.01	0005.02	0006.00	0007.00	0008.01	0008.02	0016.02
	0019.01											
Guilford County	0101.00	0108.01	0111.01	0112.0	0114.0	0138.0	0139.0	0143.00	0144.08	0146.00		
Greenville, NC												
Pitt County	0007.00	0008.00	0019.00									
Greenville-Spartanburg-Anderson, SC												
Anderson County	0001.00	0004.00	0006.00	0007.00								

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Greenville County	0002.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0013.01	0021.05	0021.08	0023.03	0023.04
	0025.05											
Pickens County	0112.01											
Spartanburg County	0201.00	0202.00	0203.01	0204.00	0205.00	0208.00	0209.00	0210.01				
Hagerstown, MD												
Washington County	0004.00	0007.00										
Hamilton-Middletown, OH												
Butler County	0003.00	0004.00	0005.00	0006.00	0007.01	0007.02	0008.00	0101.01	0101.04	0128.00	0129.00	0131.00
	0132.00	0138.00	0140.00									
Harrisburg-Lebanon-Carlisle, PA												
Cumberland County	0122.00	0132.00										
Dauphin County	0201.00	0203.00	0207.00	0211.00	0212.00	0213.00	0214.00					
Hartford, CT												
Hartford County	4159.00	4161.00	4162.00	4166.00	4171.00	5001.00	5002.00	5003.00	5004.00	5005.00	5008.00	5009.00
	5010.00	5011.00	5012.00	5013.00	5014.00	5015.00	5016.00	5017.00	5018.00	5019.00	5027.00	5028.00
	5029.00	5030.00	5031.00	5032.00	5033.00	5034.00	5035.00	5038.00	5041.00	5043.00	5046.00	5049.00
Middlesex County	5416.00											
Windham County	8001.00	8003.00										
Honolulu, HI												
Honolulu County	0018.01	0025.00	0036.98	0039.00	0051.00	0052.00	0053.00	0054.00	0055.00	0056.00	0057.00	0058.00
	0062.02	0063.02	0068.04	0070.00	0075.04	0081.00	0083.01	0085.00	0087.98	0090.00	0095.01	0095.05
	0097.01	0108.00										
Houma, LA												
Lafourche Parish	0204.00											
Houston, TX												
Fort Bend County	0707.11	0709.01	0712.00									
Harris County	0201.01	0201.02	0202.10	0203.01	0203.02	0204.00	0205.01	0205.03	0205.98	0206.01	0206.98	0207.01
	0207.02	0207.03	0207.04	0208.01	0208.02	0208.03	0209.00	0210.01	0210.02	0213.02	0214.01	0215.01
	0215.03	0216.01	0216.02	0217.01	0217.02	0218.01	0218.02	0218.03	0218.04	0219.00	0220.01	0220.02
	0221.00	0222.01	0222.02	0223.02	0224.01	0225.03	0225.04	0226.02	0233.00	0241.02	0264.00	0272.00
	0300.22	0300.23	0300.24	0301.01	0301.02	0302.00	0303.00	0304.01	0304.02	0305.01	0305.02	0306.00
	0307.01	0309.01	0309.02	0310.00	0311.00	0312.00	0313.01	0314.01	0316.01	0317.03	0317.04	0318.01
	0318.02	0318.03	0318.04	0319.01	0319.02	0320.02	0321.01	0321.02	0321.03	0328.01	0328.02	0328.03
	0329.02	0329.03	0330.02	0339.02	0339.03	0343.01	0350.01	0350.03	0356.01	0362.00	0400.26	0414.02
	0416.01	0419.06	0424.01	0430.02	0502.00	0503.01	0503.02	0504.00	0505.02	0507.02	0508.00	0509.01
	0509.02	0510.00	0514.01	0514.02	0516.02	0519.02	0520.01	0520.02	0520.03	0521.01	0521.02	0523.01
	0523.02	0523.03	0524.00	0525.03	0531.03	0533.01						
Liberty County	1001.00	1002.01	1005.00	1007.00								
Montgomery County	0906.23											
Waller County	0803.10	0805.98										
Huntington-Ashland, WV–KY–OH												
Boyd County	0302.00	0308.00										
Lawrence County	0503.00	0506.00										
Cabell County	0002.00	0005.00	0006.00	0007.00								
Wayne County	0209.00	0210.00										
Huntsville, AL												
Limestone County	0210.00											
Madison County	0001.00	0008.00	0011.00	0012.00	0016.00	0021.00						
Indianapolis, IN												
Madison County	0001.00	0003.00	0005.00	0007.00	0008.00	0009.00	0010.00	0116.00				
Marion County	3226.00	3412.00	3415.00	3416.00	3426.00	3501.00	3503.00	3508.00	3509.00	3510.00	3511.00	3512.00
	3515.00	3516.00	3517.00	3521.00	3523.00	3527.00	3528.00	3531.00	3532.00	3533.00	3535.00	3536.00
	3541.00	3542.00	3544.00	3545.00	3547.00	3549.00	3550.00	3556.00	3559.00	3564.00	3569.00	3571.00
	3572.00	3573.00	3581.00	3601.02								
Iowa City, IA												
Johnson County	0004.00	0010.00	0011.00	0016.00	0106.00							
Jackson, MI												
Jackson County	0006.00	0010.00	0011.00	0012.00	0059.00							
Jackson, MS												
Hinds County	0006.00	0008.00	0009.00	0010.00	0011.00	0012.00	0017.00	0018.00	0019.00	0020.00	0021.00	0025.00

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
	0026.00	0027.00	0031.00	0032.00	0039.00	0102.01	0106.00	0108.01				
Madison County	0305.00	0307.00	0309.00	0310.00								
Jackson, TN												
Madison County	0005.00	0008.00	0009.00	0010.00	0011.00	0012.00						
Jacksonville, FL												
Clay County	0316.98											
Duval County	0002.00	0003.00	0004.00	0005.00	0010.00	0011.00	0012.00	0013.00	0014.00	0015.00	0016.00	0017.00
	0018.00	0019.00	0026.00	0028.00	0029.00	0115.00	0116.00					
St. Johns County	0204.00											
Jacksonville, NC												
Onslow County	0020.00											
Jamestown, NY												
Chautauqua County	0303.00	0305.00										
Janesville-Beloit, WI												
Rock County	0001.00	0015.00										
Jersey City, NJ												
Hudson County	0012.00	0016.01	0017.00	0033.00	0034.00	0041.02	0046.00	0050.00	0051.00	0109.00	0145.00	0154.00
	0158.00	0190.00										
Johnson City-Kingsport-Bristol, TN–VA												
Sullivan County	0401.00	0402.00										
Washington County	0607.00	0609.00										
Bristol city	0203.00											
Johnstown, PA												
Cambria County	0001.00	0002.00	0003.00	0004.00	0008.00	0010.00						
Kalamazoo-Battle Creek, MI												
Calhoun County	0002.00	0003.00	0004.00	0033.00	0036.00							
Kalamazoo County	0001.00	0002.01	0002.02	0003.00	0004.02	0006.00	0008.01	0008.02	0009.00	0015.04	0015.07	
Van Buren County	0106.00	0107.00										
Kanakee, IL												
Kankakee County	0110.00	0114.00	0116.00	0123.00								
Kansas City, MO–KS												
Leavenworth County	0701.00											
Wyandotte County	0402.00	0403.00	0404.00	0407.00	0408.00	0409.01	0409.02	0410.00	0411.01	0412.01	0412.02	0415.00
	0417.00	0418.00	0420.01	0420.02	0423.00	0424.00	0425.01	0425.02	0426.00	0427.00	0428.00	0430.00
	0439.01	0445.00	0446.02	0451.00								
Clay County	0200.00											
Jackson County	0003.00	0004.00	0010.00	0012.00	0013.00	0014.00	0015.00	0016.00	0017.00	0018.00	0019.00	0021.00
	0022.00	0023.00	0024.00	0026.00	0029.00	0030.00	0032.00	0033.00	0034.00	0035.01	0035.02	0036.01
	0036.02	0037.00	0038.00	0039.00	0040.00	0041.00	0042.00	0043.00	0047.00	0048.00	0049.00	0050.00
	0052.00	0053.00	0054.00	0055.00	0057.00	0058.01	0060.00	0061.00	0063.00	0064.00	0067.00	0068.00
	0075.00	0077.00	0079.00	0080.00	0087.00	0096.00	0109.01	0109.02	0116.00	0130.01		
Kenosha, WI												
Kenosha County	0010.00	0011.00										
Killeen-Temple, TX												
Bell County	0207.01	0208.00	0209.00	0227.00								
Knoxville, TN												
Anderson County	0207.00											
Knox County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00
	0013.00	0014.00	0017.00	0020.00	0024.00	0026.00	0029.00					
Union County	0402.01											
Kokomo, IN												
Howard County	0001.00	0004.00	0012.00									
La Crosse, WI–MN												
La Crosse County	0003.00	0004.00	0005.00									
Lafayette, LA												
Acadia Parish	9607.00	9610.00										
Lafayette Parish	0002.00	0004.00	0007.00	0008.00	0009.00	0011.00	0013.00					
St. Landry Parish	9601.00	9602.00	9609.00	9613.00	9614.00	9616.00	9619.00					

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Lafayette, IN												
Tippecanoe County	0004.00	0006.00	0054.00	0055.00	0103.00	0104.00	0105.00					
Lake Charles, LA												
Calcasieu Parish	0001.00	0002.00	0003.00	0004.00	0014.00	0015.00						
Lakeland-Winter Haven, FL												
Polk County	0101.00	0102.00	0112.01	0112.02	0137.01							
Lancaster, PA												
Lancaster County	0001.00	0004.00	0008.00	0009.00	0015.00	0016.00						
Lansing-East Lansing, MI												
Ingham County	0002.00	0003.00	0006.00	0007.00	0008.00	0013.00	0014.00	0015.00	0019.00	0020.00	0041.00	0043.02
	0044.01	0044.02										
Laredo, TX												
Webb County	0001.04	0003.00	0004.00	0008.00	0012.00	0013.00						
Las Cruces, NM												
Dona Ana County	0004.01	0010.00										
Las Vegas, NV–AZ												
Mohave County	9501.00	9502.00	9504.00	9513.00	9523.00							
Clark County	0003.01	0003.02	0004.00	0005.04	0007.00	0008.00	0009.00	0011.00	0022.01	0035.00	0036.02	0038.00
	0039.98	0046.00										
Lawrence, KS												
Douglas County	0003.00	0004.00										
Lawrence-Haverhill, MA–NH												
Essex County	2501.00	2503.00	2504.00	2505.00	2506.00	2507.00	2509.00	2510.00	2511.00	2512.00	2513.00	2514.00
	2516.00	2524.00	2601.00	2602.00								
Lawton, OK												
Comanche County	0012.00	0016.00										
Lewiston-Auburn, ME												
Androscoggin County	0201.00	0204.00										
Lexington, KY												
Clark County	0202.00											
Fayette County	0001.00	0002.00	0003.00	0004.00	0008.00	0009.00	0010.00	0110.00	0014.00	0018.00	0021.00	
Madison County	0103.00	0104.00	0105.00									
Lima, OH												
Allen County	0125.00	0128.00	0135.00	0136.00	0138.00							
Lincoln, NE												
Lancaster County	0004.00	0005.00	0007.00	0008.00	0017.00	0018.00	0019.00	0020.00	0032.01			
Little Rock-North Little Rock, AR												
Faulkner County	0307.00											
Pulaski County	0001.00	0002.00	0004.00	0005.00	0006.00	0007.00	0009.00	0010.00	0011.00	0013.00	0025.00	0026.00
	0028.00	0029.00	0030.00	0036.06	0040.01	0040.05						
Longview-Marshall, TX												
Gregg County	0001.00	0012.00	0014.00	0111.98	0112.98							
Harrison County	0204.01	0204.02										
Los Angeles-Long Beach, CA												
Los Angeles County	1047.01	1200.00	1232.01	1232.02	1838.00	1853.00	1902.00	1903.01	1904.00	1905.00	1907.00	1908.00
	1909.01	1909.02	1910.00	1911.00	1912.01	1912.02	1914.00	1915.00	1916.00	1917.00	1918.00	1925.00
	1926.00	1927.00	1957.00	1975.00	1976.00	1977.00	1990.00	1991.00	1992.01	1992.02	1994.00	1997.00
	1998.00	1999.00	2031.00	2032.00	2033.00	2034.00	2036.00	2037.00	2038.00	2039.00	2041.00	2042.00
	2043.00	2044.00	2045.00	2046.00	2047.00	2049.00	2051.00	2060.00	2062.00	2063.00	2071.00	2073.00
	2077.00	2080.00	2083.00	2084.00	2085.00	2087.00	2088.00	2089.01	2089.02	2091.01	2091.02	2092.00
	2093.00	2094.01	2094.02	2094.03	2095.00	2098.00	2100.00	2112.00	2113.00	2119.00	2121.00	2122.01
	2122.02	2123.01	2123.02	2124.00	2125.00	2126.00	2129.00	2132.01	2132.02	2133.00	2134.01	2134.02
	2184.00	2186.00	2188.00	2193.00	2198.00	2199.00	2211.00	2212.00	2213.00	2213.02	2214.00	2215.00
	2216.00	2217.00	2218.00	2219.00	2220.00	2221.00	2222.00	2225.00	2226.00	2227.00	2240.00	2242.00
	2243.00	2244.00	2246.00	2247.00	2260.00	2264.00	2267.00	2270.00	2281.00	2282.00	2283.00	2284.00
	2285.00	2286.00	2287.00	2288.00	2289.00	2291.00	2292.00	2293.00	2294.00	2311.00	2312.00	2313.00
	2314.00	2316.00	2317.00	2318.00	2319.00	2321.00	2322.00	2323.00	2324.00	2325.00	2326.00	2327.00
	2328.00	2345.00	2349.00	2361.00	2362.01	2362.02	2371.00	2372.00	2375.00	2376.00	2377.00	2383.00
	2392.00	2393.00	2395.00	2396.00	2397.00	2398.00	2400.00	2402.00	2403.00	2404.00	2405.00	2406.00
	2407.00	2408.00	2409.00	2410.00	2411.00	2414.00	2420.00	2421.00	2422.00	2423.00	2426.00	2427.00
	2430.00	2431.00	2653.02	2947.00	2948.00	2949.00	2962.00	2971.00	3022.00	4023.02	4025.01	4025.02

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
	4027.02	4028.00	4088.00	4334.00	4335.00	4619.00	4620.00	4622.00	4817.02	4823.02	5041.02	5305.00
	5307.00	5308.00	5309.00	5310.00	5311.00	5312.01	5312.02	5313.01	5313.02	5315.01	5315.02	5316.01
	5316.02	5317.02	5319.01	5319.02	5324.00	5326.02	5327.00	5328.00	5329.00	5330.00	5331.01	5331.02
	5332.00	5333.00	5335.00	5336.00	5337.00	5338.01	5338.02	5339.00	5340.00	5341.00	5342.00	5343.00
	5344.01	5344.02	5349.00	5350.00	5351.01	5351.02	5352.00	5353.00	5354.00	5355.00	5357.00	5358.01
	5400.00	5402.00	5404.00	5405.00	5406.00	5414.00	5415.00	5416.01	5416.02	5421.01	5421.02	5426.00
	5427.00	5429.00	5716.00	5725.00	5728.00	5732.01	5732.02	5733.00	5735.00	5752.00	5753.00	5754.00
	5755.00	5758.00	5759.00	5760.00	5762.00	5763.00	5764.00	6001.00	6002.00	6002.02	6003.01	6006.02
	6015.00	6017.00	6019.00	9101.00	.....	.....	.....	.....	.....	.....	.....	.....
Louisville, KY–IN												
Clark County	0502.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Floyd County	0705.00	0708.01	0709.02	.....	.....	.....	.....	.....	.....	.....	.....	.....
Scott County	9668.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Jefferson County	0001.00	0002.00	0006.00	0007.00	0009.00	0010.00	0014.00	0015.00	0016.00	0018.00	0020.00	0021.00
	0022.00	0023.00	0024.00	0027.00	0028.00	0030.00	0034.00	0035.00	0037.00	0043.01	0043.02	0049.00
	0050.00	0051.00	0053.00	0055.00	0056.00	0059.00	0062.00	0065.00	0066.00	0110.02	.....	.....
Lowell, MA–NH												
Middlesex County	3101.00	3104.00	3107.00	3108.00	3110.00	3111.00	3112.00	3118.00	3119.00	3120.00	3121.00	3124.00
	3153.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lubbock, TX												
Lubbock County	0002.02	0003.01	0003.02	0006.03	0006.04	0006.05	0006.06	0007.00	0008.00	0009.00	0010.00	0011.00
	0012.00	0013.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lynchburg, VA												
Lynchburg city	0005.98	0006.00	0007.00	0011.00	0013.00	0014.98	0023.95	.....	.....	.....	.....	.....
Macon, GA												
Bibb County	0101.00	0103.00	0104.00	0105.00	0106.00	0107.00	0111.00	0112.00	0113.00	0114.00	0115.00	0127.00
	0128.00	0129.00	0130.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Houston County	0205.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Peach County	0402.00	0404.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Madison, WI												
Dane County	0011.00	0014.01	0016.01	0016.02	0017.00	0025.98	0032.00	.....	.....	.....	.....	.....
Manchester, NH												
Hillsborough County	0005.00	0014.00	0017.00	0020.00	.....	.....	.....	.....	.....	.....	.....	.....
Mansfield, OH												
Richland County	0001.00	0002.00	0003.00	0007.00	.....	.....	.....	.....	.....	.....	.....	.....
Mc Allen-Edinburg-Mission, TX												
Hidalgo County	0205.03	0206.00	0211.00	0213.01	0213.02	0213.03	0215.00	0216.00	0221.02	0226.00	0231.01	0237.00
	0242.01	0244.00	0245.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Medford-Ashland, OR												
Jackson County	0001.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Melbourne-Titusville-Palm Bay, FL												
Brevard County	0607.00	0608.00	0626.00	0648.00	0649.02	.....	.....	.....	.....	.....	.....	.....
Memphis, TN–AR–MS												
Crittenden County	0304.00	0305.00	0306.10	0310.00	0311.00	.....	.....	.....	.....	.....	.....	.....
Fayette County	0601.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Shelby County	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0013.00	0014.00	0018.00
	0019.00	0020.00	0021.00	0022.00	0023.00	0024.00	0028.00	0036.00	0037.00	0038.00	0039.00	0040.00
	0041.00	0044.00	0045.00	0046.00	0047.00	0048.00	0049.00	0050.00	0051.00	0053.00	0054.00	0055.00
	0057.00	0058.00	0059.00	0060.00	0061.00	0062.00	0065.00	0067.00	0068.00	0073.00	0078.10	0081.10
	0084.00	0090.00	0103.00	0105.00	0222.20	0223.10	0227.98	.....	.....	.....	.....	.....
Tipton County	0407.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Merced, CA												
Merced County	0015.00	0016.00	0301.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Miami, FL												
Dade County	0004.03	0005.03	0007.03	0007.04	0008.02	0009.03	0010.01	0010.03	0010.04	0013.01	0014.01	0014.02
	0015.01	0015.02	0016.01	0017.01	0017.02	0017.03	0018.01	0018.02	0018.03	0019.01	0019.03	0019.04
	0020.01	0020.03	0020.04	0022.01	0022.02	0024.01	0024.02	0025.00	0026.00	0027.02	0028.00	0029.00
	0030.01	0030.02	0031.00	0034.00	0036.01	0036.02	0037.01	0037.02	0039.01	0042.00	0043.00	0044.00
	0045.00	0049.01	0051.00	0052.01	0052.02	0053.01	0053.02	0054.01	0054.02	0063.01	0064.01	0064.02
	0064.03	0066.01	0066.02	0072.00	0075.02	0089.04	0105.00	0106.02	0113.00	.....	.....	.....

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Middlesex-Somerset-Hunterdon, NJ												
Middlesex County	0039.00	0045.00	0046.00	0047.00	0048.00	0049.00	0052.00	0053.00	0054.00	0055.00	0059.00	
Milwaukee-Waukesha, WI												
Milwaukee County	0012.00	0018.00	0021.00	0028.00	0040.00	0042.00	0044.00	0045.00	0046.00	0047.00	0062.00	0063.00
	0064.00	0065.00	0066.00	0067.00	0068.00	0069.00	0070.00	0071.00	0080.00	0081.00	0082.00	0083.00
	0084.00	0085.00	0086.00	0087.00	0088.00	0089.00	0090.00	0091.00	0096.00	0097.00	0098.00	0099.00
	0100.00	0101.00	0102.00	0103.00	0104.00	0105.00	0106.00	0107.00	0108.00	0110.00	0111.00	0112.00
	0113.00	0115.00	0116.00	0117.00	0118.00	0119.00	0120.00	0121.00	0122.00	0123.00	0132.00	0134.00
	0135.00	0136.00	0137.00	0138.00	0139.00	0140.00	0141.00	0142.00	0146.00	0147.00	0148.00	0149.00
	0150.00	0151.00	0154.00	0155.00	0156.00	0157.00	0158.00	0159.00	0163.00	0164.00	0165.00	0166.00
	0167.00	0168.00	0169.00	0174.00	0175.00	0177.00	0178.98					
Minneapolis-St. Paul, MN-WI												
Hennepin County	0016.00	0018.00	0021.00	0022.00	0023.00	0024.00	0025.00	0026.00	0028.00	0029.00	0031.00	0033.00
	0034.00	0037.00	0038.00	0039.00	0041.00	0042.00	0043.00	0044.00	0047.00	0048.00	0049.00	0054.00
	0056.00	0057.00	0058.00	0059.00	0060.00	0061.00	0062.00	0063.00	0064.00	0068.00	0069.00	0070.00
	0071.00	0072.00	0073.00	0074.00	0077.00	0078.00	0079.00	0082.00	0083.00	0084.00	0085.00	0094.00
	0250.00											
Ramsey County	0305.00	0309.00	0310.00	0313.00	0314.00	0315.00	0316.00	0317.00	0319.00	0324.00	0325.00	0326.00
	0327.00	0328.00	0329.00	0330.00	0331.00	0334.00	0335.00	0336.00	0337.00	0338.00	0339.00	0340.00
	0344.00	0359.00	0360.00	0361.00	0368.00	0371.00	0374.04					
Mobile, AL												
Baldwin County	0106.00											
Mobile County	0001.00	0002.00	0003.00	0004.01	0004.02	0005.00	0006.00	0007.02	0010.01	0011.00	0012.01	0012.03
	0012.04	0013.01	0013.02	0014.00	0015.01	0015.02	0016.00	0026.00	0027.00	0036.05	0038.01	0039.01
	0039.02	0040.00	0041.00	0042.00	0043.00	0044.00	0045.00	0046.00	0047.00	0048.00	0049.00	0050.00
Modesto, CA												
Stanislaus County	0007.00	0017.00	0018.00	0020.05	0021.00	0022.00						
Monmouth-Ocean City, NJ												
Monmouth County	8047.97	8056.00	8058.01	8058.02	8070.02	8070.03	8070.04	8072.97	8073.00	8076.00	8099.03	
Ocean County	7152.00	7153.00	7154.00	7200.00	7201.00	7222.00	7312.00					
Monroe, LA												
Quachita Parish	0003.00	0006.00	0007.00	0008.00	0009.00	0011.00	0012.00	0013.00	0014.00	0057.00	0106.01	
Montgomery, AL												
Autauga County	0210.00											
Montgomery County	0001.00	0002.00	0003.85	0006.00	0007.00	0010.00	0011.00	0012.00	0024.00	0030.00		
Muncie, IN												
Delaware County	0001.00	0002.00	0003.00	0004.00	0006.00	0007.00	0009.02	0012.00	0019.01			
Myrtle Beach, SC												
Horry County	0704.00											
Naples, FL												
Collier County	0007.00	0112.03	0113.00	0114.00								
Nashua, NH												
Hillsborough County	0105.00	0107.00	0108.00									
Nashville, TN												
Davidson County	0104.02	0114.00	0118.00	0119.00	0123.00	0124.00	0125.00	0126.00	0135.00	0136.00	0137.00	0139.00
	0140.00	0142.00	0143.00	0144.00	0145.00	0146.00	0148.00	0159.00	0160.00	0161.00	0162.00	0163.00
	0164.00	0165.00	0166.00									
Rutherford County	0416.00	0419.00										
Sumner County	0208.00											
Wilson County	0307.00											
Nassau-Suffolk, NY												
Nassau County	4070.00	4111.00	4144.00									
Suffolk County	1224.06	1225.01	1233.02	1456.03	1473.00	1580.07	1584.06	1587.05	1591.03	1697.02	1701.01	
New Bedford, MA												
Bristol County	6507.00	6508.00	6509.00	6511.00	6512.00	6517.00	6518.00	6519.00	6526.00	6527.00		
New Haven-Meriden, CT												
New Haven County	1402.00	1403.00	1405.00	1406.00	1407.00	1408.00	1413.00	1415.00	1416.00	1417.00	1421.00	1424.00
	1426.02	1701.01	1701.02	1702.01	1702.02	1710.00						

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
New London—Norwich, CT–RI												
New London County	6901.00	6905.00	6906.00	6969.00								
Jefferson Parish	0207.00	0208.00	0209.00	0237.00	0246.00	0257.98	0259.00	0262.00	0265.00	0268.00	0269.00	
Orleans Parish	0002.00	0003.00	0004.00	0006.01	0006.03	0006.11	0006.13	0008.00	0009.01	0009.02	0009.03	0009.04
	0011.00	0012.00	0013.01	0013.02	0014.01	0014.02	0015.00	0016.00	0017.03	0017.06	0017.33	0017.98
	0019.00	0020.00	0022.00	0027.00	0028.00	0029.00	0030.00	0031.00	0033.05	0033.06	0034.00	0035.00
	0036.00	0039.00	0040.00	0044.01	0044.02	0045.00	0048.00	0049.00	0050.00	0059.00	0060.00	0067.00
	0063.00	0069.00	0070.00	0071.00	0072.00	0075.01	0075.02	0076.05	0080.00	0081.01	0081.02	0085.00
	0086.00	0087.00	0089.00	0091.00	0092.00	0093.01	0093.02	0094.00	0100.00	0102.00	0104.00	0111.00
	0131.00											
Plaquemines Parish	0508.00											
St. Bernard Parish	0301.01											
St. Charles Parish	0626.00											
St. James Parish	0405.00											
St. John the Baptist Parish	0709.00											
New York, NY												
Bronx County	0011.00	0015.00	0017.00	0020.00	0023.00	0025.00	0027.01	0027.02	0031.00	0033.00	0035.00	0037.00
	0039.00	0041.00	0043.00	0044.00	0047.00	0048.00	0049.00	0050.00	0052.00	0056.00	0059.01	0062.00
	0065.00	0067.00	0069.00	0071.00	0073.00	0075.00	0077.00	0079.00	0081.00	0083.00	0085.00	0086.00
	0087.00	0088.00	0089.00	0099.00	0105.00	0110.00	0115.01	0115.02	0119.00	0121.01	0121.02	0123.00
	0127.01	0127.02	0129.01	0129.02	0131.00	0133.00	0135.00	0137.00	0139.00	0141.00	0143.00	0144.00
	0145.00	0147.00	0149.00	0155.00	0157.00	0161.00	0165.00	0167.00	0169.00	0173.00	0175.00	0177.00
	0179.00	0187.00	0189.00	0193.00	0195.00	0197.00	0199.00	0201.00	0205.00	0206.02	0211.00	0213.01
	0213.02	0215.01	0215.02	0217.01	0219.00	0221.00	0223.00	0227.01	0229.01	0229.02	0233.01	0233.02
	0235.01	0235.02	0237.01	0237.02	0239.00	0241.00	0243.00	0245.00	0251.00	0253.00	0255.00	0257.00
	0263.00	0265.00	0271.01	0317.00	0324.00	0334.00	0359.00	0361.00	0363.00	0365.01	0365.02	0367.00
	0369.01	0369.02	0371.00	0373.00	0375.01	0375.02	0375.03	0377.00	0379.00	0381.00	0383.00	0385.00
	0389.00	0391.00	0393.00	0397.00	0399.01	0403.01	0435.00	0458.00				
Kings County	0002.00	0011.00	0018.00	0020.00	0023.00	0025.00	0027.00	0029.01	0029.02	0055.00	0059.00	0071.00
	0085.00	0112.00	0120.00	0125.00	0127.00	0185.01	0185.02	0214.00	0217.00	0221.00	0222.00	0225.00
	0226.00	0228.00	0231.00	0233.00	0234.00	0235.00	0237.00	0238.00	0239.00	0241.00	0243.00	0251.00
	0255.00	0257.00	0259.01	0259.02	0261.00	0263.00	0281.00	0283.00	0285.01	0285.02	0287.00	0289.00
	0293.00	0299.00	0303.00	0307.00	0309.00	0326.00	0328.00	0330.00	0342.00	0347.00	0348.01	0348.02
	0351.00	0352.00	0353.00	0357.00	0359.00	0360.01	0360.02	0363.00	0365.01	0365.02	0367.00	0369.00
	0371.00	0373.00	0375.00	0379.00	0381.00	0382.00	0387.00	0389.00	0391.00	0393.00	0395.00	0405.00
	0409.00	0411.00	0413.00	0415.00	0417.00	0419.00	0421.00	0423.00	0425.00	0427.00	0429.00	0431.00
	0433.00	0435.00	0437.00	0441.00	0453.00	0465.00	0489.00	0493.00	0505.00	0507.00	0509.00	0511.00
	0513.00	0523.00	0525.00	0527.00	0529.00	0531.00	0533.00	0535.00	0537.00	0539.00	0545.00	0547.00
	0549.00	0551.00	0572.00	0610.01	0884.00	0892.00	0900.00	0906.00	0908.00	0910.00	0912.00	0916.00
	0918.00	0944.02	0982.00	1034.00	1058.00	1106.00	1110.00	1130.00	1134.00	1138.00	1140.00	1146.00
	1148.00	1150.00	1152.00	1154.00	1156.00	1158.00	1160.00	1164.00	1166.00	1168.00	1170.00	1172.01
	1192.00	1194.00	1210.00	1214.00								
New York County	0002.01	0002.02	0006.00	0008.00	0010.02	0014.02	0016.00	0018.00	0020.00	0024.00	0025.00	0026.01
	0036.01	0041.00	0062.00	0117.00	0119.00	0156.02	0162.00	0164.00	0166.00	0168.00	0172.01	0172.02
	0178.00	0180.00	0182.00	0184.00	0186.00	0188.00	0190.00	0192.00	0194.00	0196.00	0198.00	0201.02
	0202.00	0204.00	0206.00	0207.02	0208.00	0209.01	0209.02	0213.01	0213.02	0216.00	0217.01	0217.02
	0218.00	0219.97	0220.00	0222.00	0223.97	0223.98	0224.00	0226.00	0227.02	0228.00	0229.00	0230.00
	0231.02	0232.00	0234.00	0235.02	0239.00	0243.01	0243.02	0245.00	0249.00	0251.00	0261.00	0267.00
	0269.00	0277.00	0291.00	0293.00								
Queens County	0025.00	0035.00	0043.00	0044.02	0055.00	0087.00	0246.00	0252.00	0262.00	0266.00	0299.00	0442.00
	0871.00	0942.02	0952.00	0972.00	1010.00							
Richmond County	0029.00	0040.00	0133.01	0319.01								
Rockland County	0115.03											
Westchester County, NY												
Westchester County	0001.01	0001.03	0002.01	0003.00	0004.01	0004.02	0005.00	0010.00	0011.01	0012.00	0013.02	0013.03
	0022.03	0027.00	0028.00	0029.00	0031.00	0032.00	0035.00	0036.00	0058.00	0061.00	0062.00	0063.00
	0078.00	0080.00	0093.00	0119.01	0133.01	0143.00						
Newark, NJ												
Essex County	0002.00	0003.00	0005.00	0007.00	0009.00	0010.00	0011.00	0013.00	0014.00	0015.00	0016.00	0017.00
	0018.00	0019.00	0026.00	0027.00	0028.00	0029.00	0030.00	0031.00	0032.00	0034.00	0035.00	0037.00
	0038.00	0039.00	0040.00	0041.00	0044.00	0046.00	0048.01	0048.02	0049.00	0054.00	0055.00	0056.00
	0057.00	0058.00	0059.00	0060.00	0062.00	0063.00	0066.00	0067.00	0068.00	0069.00	0074.00	0075.01
	0075.02	0080.00	0081.00	0082.00	0083.00	0084.00	0085.00	0086.00	0087.00	0088.00	0089.00	0091.00
	0092.00	0093.00	0095.00	0096.00	0097.00	0099.00	0106.00	0107.00	0109.00	0110.00	0111.00	0112.00
	0113.00	0116.00	0131.00	0132.00	0182.00	0184.00	0186.00	0187.00				
Union County	0302.00	0303.00	0304.00	0306.00	0308.01	0310.00	0311.00	0312.00	0313.00	0314.00	0317.00	0319.02
	0390.00	0393.00										
Warren County	0309.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Newburgh, NY–PA												
Orange County	0004.00	0005.00	0006.00	0017.00	0022.00	0150.00						
Pike County	9502.00											
Norfolk-Virginia Beach-Newport News, VA–NC												
York County	0505.00											
Chesapeake city	0201.00											
Hampton city	0106.02											
Newport News city	0302.00	0304.00	0305.00	0306.00	0308.00	0309.00	0310.00					
Norfolk city	0013.00	0014.00	0016.00	0025.00	0026.00	0027.00	0029.00	0034.00	0035.01	0035.02	0041.00	0042.00
	0043.00	0044.00	0046.00	0047.00	0048.00	0050.00	0051.00	0052.00	0053.00	0065.02	0067.00	
Portsmouth city	2105.00	2110.00	2111.00	2113.00	2114.00	2118.00	2119.00	2120.00	2121.00	2126.00		
Suffolk city	0651.00	0654.00	0655.00									
Virginia Beach city	0450.85											
Williamsburg city	3705.98											
Oakland, CA												
Alameda County	4005.00	4006.00	4007.00	4008.00	4009.00	4010.00	4011.00	4013.00	4014.00	4015.00	4016.00	4017.00
	4018.00	4019.00	4021.00	4022.00	4023.00	4024.00	4025.00	4026.00	4027.00	4028.00	4029.00	4030.00
	4031.00	4033.00	4034.00	4053.00	4054.00	4055.00	4057.00	4058.00	4059.00	4060.00	4061.00	4062.00
	4063.00	4071.00	4072.00	4073.00	4074.00	4075.00	4084.00	4085.00	4086.00	4087.00	4088.00	4089.00
	4090.00	4091.00	4092.00	4093.00	4094.00	4095.00	4096.00	4097.00	4103.00	4204.00	4220.00	4227.00
	4228.00	4229.00	4232.00	4233.00	4240.00	4274.00	4275.00	4276.00	4339.00	4377.00		
Contra Costa County	3050.00	3100.00	3160.00	3280.00	3650.02	3680.00	3750.00	3760.00	3770.00	3790.00	3810.00	
Ocala, FL												
Marion County	0017.00	0018.00										
Odessa-Midland, TX												
Ector County	0012.00	0014.00	0015.00	0018.00	0019.00	0020.00	0022.00					
Midland County	0014.00	0015.00	0016.00	0017.00								
Oklahoma City, OK												
Canadian County	3004.00											
Cleveland County	2001.00	2002.00	2012.01	2012.02	2012.03							
Logan County	6001.00											
Oklahoma County	1004.00	1010.00	1011.00	1013.00	1014.00	1024.00	1025.00	1026.00	1028.00	1030.00	1031.00	1033.00
	1034.00	1036.02	1038.00	1039.00	1040.00	1041.00	1043.00	1044.00	1046.00	1047.00	1048.00	1049.00
	1054.00	1055.00	1056.00	1057.00	1058.00	1059.95	1071.01	1072.16	1076.06	1079.00	1082.07	1082.08
	1088.03											
Pottawatomie County	5001.00	5002.00	5003.02									
Omaha, NE–IA												
Pottawattamie County	0307.00	0309.00										
Douglas County	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00	0016.00	0019.00
	0021.00	0029.00	0032.00	0038.00	0039.00	0040.00	0041.00	0051.00	0052.00	0053.00	0054.00	0059.01
	0059.02	0060.00	0063.01									
Sarpy County	0103.02											
Orange County, CA												
Orange County	0524.04	0525.15	0626.14	0740.03	0744.03	0744.05	0744.06	0745.01	0745.02	0746.01	0746.02	0747.01
	0747.02	0748.01	0748.02	0748.05	0748.06	0749.01	0749.02	0750.01	0750.02	0751.00	0762.04	0865.02
	0873.00	0874.02	0874.03	0878.03	0891.04	0891.05	0995.09	0995.10	0998.02			
Orlando, FL												
Orange County	0101.00	0104.00	0105.00	0106.00	0115.00	0117.01	0117.02	0119.01	0146.01	0155.02	0159.01	0176.00
Seminole County	0201.01	0201.02	0205.00	0211.00								
Owensboro, KY												
Daviess County	0002.00	0003.00	0004.00	0005.00								
Panama City, FL												
Bay County	0016.00	0018.00	0020.00									
Parkersburg-Marietta, WV–OH												
Washington County	0205.00											
Wood County	0006.00	0007.01										
Pensacola, FL												
Escambia County	0002.00	0003.00	0004.00	0006.00	0007.00	0015.00	0016.00	0017.00	0018.00	0019.00	0020.00	0040.00
Peoria-Pekin, IL												
Peoria County	0001.00	0002.00	0003.00	0005.00	0007.00	0008.00	0009.00	0012.00	0013.00	0014.00	0015.00	0017.00
Tazewell County	0202.00	0209.00										

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Philadelphia, PA–NJ												
Burlington County	7021.03	7026.04										
Camden County	6001.00	6002.00	6003.00	6004.00	6005.00	6006.00	6007.00	6008.00	6009.00	6011.00	6013.00	6015.00
	6016.00	6017.00	6018.00	6019.00	6027.00	6101.00						
Gloucester County	5010.02											
Salem County	0203.00	0220.00										
Bucks County	1058.06											
Chester County	3056.00											
Delaware County	4029.00	4047.00	4048.00	4049.02	4052.00	4054.00	4055.00	4056.00	4057.00	4058.01	4058.02	4059.00
	4064.02	4097.02										
Montgomery County	2039.02	2088.01										
Philadelphia County	0002.00	0006.00	0009.00	0013.00	0014.00	0018.00	0019.00	0020.00	0021.00	0022.00	0023.00	0024.00
	0025.00	0028.00	0030.00	0031.00	0032.00	0033.00	0034.00	0036.00	0041.00	0044.00	0046.00	0052.00
	0056.00	0063.00	0066.00	0069.00	0070.00	0071.00	0072.00	0074.00	0077.00	0080.00	0083.00	0084.00
	0085.00	0086.00	0087.00	0088.00	0089.00	0091.00	0092.00	0093.00	0094.00	0095.00	0096.00	0102.00
	0103.00	0104.00	0105.00	0106.00	0107.00	0108.00	0109.00	0110.00	0111.00	0112.00	0123.00	0127.00
	0131.00	0132.00	0133.00	0137.00	0138.00	0139.00	0140.00	0141.00	0144.00	0145.00	0146.00	0147.00
	0148.00	0149.00	0151.00	0152.00	0153.00	0154.00	0155.00	0156.00	0157.00	0159.00	0161.00	0162.00
	0163.00	0164.00	0165.00	0166.00	0167.00	0168.00	0169.00	0170.00	0171.00	0172.00	0173.00	0174.00
	0175.00	0176.00	0177.00	0178.00	0179.00	0181.00	0192.00	0194.00	0195.00	0196.00	0197.00	0198.00
	0199.00	0200.00	0201.00	0202.00	0203.00	0204.00	0205.00	0239.00	0241.00	0245.00	0246.00	0253.00
	0277.00	0279.00	0280.00	0282.00	0283.00	0284.00	0286.00	0288.00	0289.00	0291.00	0293.00	0294.00
	0296.00	0297.00	0327.00	0346.00								
Phoenix-Mesa, AZ												
Maricopa County	0202.00	0608.00	0609.00	0614.00	0716.00	0926.00	0929.00	1092.00	1102.00	1126.00	1127.00	1128.00
	1129.00	1130.00	1131.00	1132.00	1133.00	1135.00	1136.00	1138.00	1139.00	1140.00	1141.00	1142.00
	1143.00	1144.00	1145.00	1146.00	1147.00	1148.00	1149.00	1150.00	1151.00	1152.00	1153.00	1154.00
	1158.00	1159.00	1160.00	1161.00	1166.00	3187.00	3188.00	3191.00	3200.02	4201.02	4226.05	5229.02
	5231.02	5231.04	6232.00									
Pinal County	0001.00	0004.00	0010.00	0012.00	0015.00	0017.00	0018.00	0019.00	0020.00			
Pine Bluff, AR												
Jefferson County	0005.02	0009.02	0010.00	0011.00	0012.00	0013.00						
Pittsburgh, PA												
Allegheny County	0101.00	0103.00	0305.00	0314.00	0405.00	0406.00	0411.00	0501.00	0502.00	0507.00	0509.00	0510.00
	0511.00	0603.00	0604.00	0606.00	0810.98	1016.00	1017.00	1114.00	1115.00	1203.00	1204.00	1207.00
	1208.00	1301.00	1303.00	1304.00	1305.00	1306.00	1504.00	1604.00	1606.00	1609.00	1803.00	1805.00
	2017.00	2019.00	2107.00	2204.00	2205.00	2304.00	2305.00	2306.00	2503.00	2509.00	2609.00	2614.00
	2808.00	2902.97	3101.98	3102.95	4644.00	4657.97	4824.00	4838.00	4867.00	4869.00	4923.00	4928.00
	5100.00	5129.00	5140.00	5509.00	5512.00	5519.00	5521.00	5523.00	5606.00	5612.00		
Beaver County	6003.00	6012.00	6013.00	6015.00	6028.00	6040.00	6041.98	6042.00	6045.00	6052.00	6054.00	
Butler County	9024.00											
Fayette County	2608.00	2612.00	2614.00	2617.00	2619.00	2623.00	2626.00	2632.00				
Washington County	7041.00	7543.00	7544.00	7546.00	7751.00	7831.00	7922.00					
Westmoreland County	8001.00	8007.01	8007.02	8016.00	8028.00	8041.00	8053.00	8054.00				
Pittsfield, MA												
Berkshire County	9001.00	9012.00										
Portland, ME												
Cumberland County	0004.00	0005.00	0006.00	0009.00	0010.00	0012.00	0014.00					
Portland-Vancouver, OR–WA												
Multnomah County	0011.01	0021.00	0022.01	0022.02	0023.01	0023.02	0033.01	0033.02	0034.01	0034.02	0040.01	0042.00
	0048.00	0049.00	0050.00	0051.00	0052.00	0053.00	0054.00	0056.00	0074.00	0083.01		
Washington County	0332.00											
Clark County	0410.05	0417.00	0418.00	0423.00	0424.00	0425.00	0427.00					
Providence-Fall River–Warwick, RI–MA												
Bristol County	6314.00	6402.00	6403.00	6408.00	6409.00	6410.00	6411.00	6412.00	6413.00	6414.00		
Providence County	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00	0013.00
	0014.00	0019.00	0020.00	0026.00	0027.00	0030.00	0108.00	0109.00	0110.00	0111.00	0149.00	0151.00
	0152.00	0172.00	0174.00	0180.00	0183.00							
Provo-Orem, UT												
Utah County	0016.00	0018.00	0019.00	0025.00								
Pueblo, CO												
Pueblo County	0002.00	0006.00	0007.00	0012.00	0013.00	0014.00	0020.00	0021.00	0026.00	0029.01	0030.03	
Racine, WI												
Racine County	0001.00	0003.00	0004.00	0005.00	0010.01							

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Raleigh-Durham-Chapel Hill, NC												
Durham County	0003.01	0004.02	0005.00	0008.02	0009.00	0010.01	2626.00	0011.00	0012.01	0012.02	0013.01	0013.04
	0014.00	0015.01	0015.02									
Franklin County	0602.00											
Johnston County	0403.00	0406.00	0414.00									
Orange County	0107.03	0113.00	0116.00									
Wake County	0501.00	0504.00	0506.00	0507.00	0508.00	0509.00	0510.00	9511.00	0520.01	0522.01	0542.98	
Rapid City, SD												
Pennington County	0101.00											
Reading, PA												
Berks County	0001.00	0002.00	0012.00	0013.00	0019.00	0021.00	0022.00	0024.00	0025.00	0026.00		
Redding, CA												
Shasta County	0101.00											
Reno, NV												
Washoe County	0001.00	0009.00	0018.00									
Richland-Kennewick-Pasco, WA												
Benton County	0112.00											
Franklin County	0201.00	0202.00										
Richmond-Petersburg, VA												
Chesterfield County	1004.06											
Henrico County	2008.05											
Hopewell city	8201.00	8203.98	8207.00									
Petersburg city	8101.00	8102.00	8103.00	8104.00	8106.00	8107.00	8108.00					
Richmond city	0109.00	0110.00	0201.00	0202.00	0203.00	0204.00	0206.00	0207.00	0208.00	0209.00	0210.00	0211.00
	0301.00	0302.00	0401.00	0402.00	0403.00	0404.00	0413.00	0415.00	0601.00	0602.00	0603.00	0604.00
	0607.98	0608.98										
Riverside-San Bernardino, CA												
Riverside County	0303.00	0304.00	0305.00	0422.02	0422.03	0428.00	0434.01	0434.02	0436.00	0440.00	0442.00	0454.00
	0455.00	0456.02	0457.01	0459.00	0462.00							
San Bernardino County	0014.00	0016.00	0042.00	0047.00	0048.00	0050.00	0054.00	0055.00	0056.00	0057.00	0058.00	0059.00
	0060.00	0064.00	0065.00	0068.00	0069.00	0075.00	0094.00	0104.00	0104.09	0105.00	0106.00	0117.00
Roanoke VA												
Roanoke city	0007.00	0008.00	0009.00	0010.00	0011.00	0012.00	0013.00	0014.00				
Rochester, MN												
Olmsted County	0001.00	0005.00										
Rochester, NY												
Genesee County	9510.00	9515.00										
Livingston County	0305.00											
Monroe County	0002.00	0007.00	0013.00	0014.00	0015.00	0016.00	0017.00	0023.00	0027.00	0032.00	0033.00	0038.02
	0039.00	0040.00	0041.00	0043.00	0046.02	0047.01	0048.00	0049.00	0050.00	0051.00	0052.00	0053.00
	0055.00	0056.00	0057.00	0059.00	0064.00	0065.00	0066.00	0069.00	0079.00	0080.00	0090.00	0091.00
	0092.00	0093.01	0094.02	0094.03	0096.01	0096.02	0096.03	0096.04				
Ontario County	0517.00	0518.00										
Wayne County	0213.00											
Rockford, IL												
Winnebago County	0010.00	0011.00	0021.00	0024.00	0025.00	0026.00	0027.00	0028.00	0029.00			
Rocky Mount, NC												
Edgecombe County	0201.00	0204.00										
Nash County	0101.00											
Sacramento, CA												
El Dorado	0301.01											
Sacramento County	0005.00	0006.00	0007.00	0010.00	0011.00	0012.00	0014.00	0018.00	0020.00	0021.00	0022.00	0027.00
	0028.00	0032.01	0037.00	0044.01	0044.02	0045.00	0050.02	0052.01	0053.00	0062.02	0064.00	0065.00
	0066.00	0067.02	0068.00	0069.00	0070.01							
Saginaw-Bay City-Midland, MI												
Bay County	2802.00	2803.00	2804.00	2807.00	2811.00							
Saginaw County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0007.00	0008.00	0009.00	0010.00	0011.00	0013.00
	0017.00	0109.00										

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
St. Cloud, MN												
Stearns County	0001.00											
St. Joseph, MO												
Buchanan County	0010.00	0012.00	0013.00	0014.00	0020.00							
St. Louis, MO–IL												
Madison County	4005.00	4006.00	4007.00	4024.00	4025.00	4031.00						
St. Clair County	5004.00	5005.00	5006.00	5009.00	5010.00	4011.00	5012.00	5013.00	5021.00	5022.00	5024.01	5025.00
	5027.00	5028.00	5029.00	5030.00	5041.00	5042.01	5044.00					
St. Louis County	2128.00	2139.00	2140.00	2141.00	2169.00	2217.98						
St. Louis city	1015.00	1053.00	1054.00	1055.00	1061.00	1062.00	1063.00	1064.00	1065.00	1066.00	1067.00	1072.00
	1074.00	1075.00	1076.00	1077.00	1084.00	1085.00	1097.00	1101.00	1102.00	1103.00	1104.00	1105.00
	1111.00	1112.00	1113.00	1114.00	1115.00	1122.00	1123.00	1155.00	1156.00	1164.00	1172.00	1173.00
	1181.00	1184.00	1185.00	1186.00	1192.00	1193.00	1201.00	1202.00	1203.00	1211.00	1212.00	1213.00
	1214.00	1224.00	1231.00	1232.00	1241.00	1242.00	1246.00	1257.00	1266.00	1267.00		
Salem, OR												
Marion County	0001.00	0019.00										
Salinas, CA												
Monterey County	0005.00	0007.00	0010.00	0013.00	0106.02	0137.00						
Salt Lake City-Ogden, UT												
Davis County	1256.00	1263.00										
Salt Lake County	1001.00	1007.00	1014.00	1017.00	1019.00	1020.00	1021.00	1023.00	1024.00	1025.00	1026.00	1027.00
	1029.00	1030.00	1032.00	1115.00	1116.00	1133.05						
Weber County	2009.00	2011.00	2012.00	2018.00	2019.00							
San Angelo, TX												
Tom Green County	0005.00	0006.00	0009.00									
San Antonio, TX												
Bexar County	1101.00	1102.00	1103.00	1105.00	1106.00	1107.00	1108.00	1109.00	1110.00	1301.00	1302.00	1303.00
	1304.00	1305.00	1306.00	1307.00	1309.00	1311.00	1401.00	1501.00	1503.00	1504.00	1505.00	1507.00
	1508.00	1510.00	1519.00	1601.00	1605.00	1606.00	1609.00	1610.85	1612.00	1701.00	1702.00	1703.00
	1704.00	1707.00	1708.00	1709.00	1710.00	1711.00	1712.00	1714.00	1715.00	1901.00		
Guadalupe County	2102.00	2103.00										
San Diego, CA												
San Diego County	0022.00	0023.00	0024.00	0025.01	0026.00	0027.01	0027.04	0033.00	0034.02	0035.00	0036.00	0039.00
	0040.00	0041.00	0045.00	0046.00	0047.00	0048.00	0049.00	0050.00	0051.00	0052.00	0053.00	0054.00
	0056.00	0057.00	0058.00	0065.00	0066.00	0083.05	0100.08	0100.09	0114.00	0115.00	0116.00	0117.00
	0118.00	0120.00	0122.00	0123.02	0125.00	0132.01	0144.00	0157.01	0158.00	0182.00	0184.00	0186.03
	0202.98											
San Francisco, CA												
San Francisco County	0106.00	0107.00	0111.00	0113.00	0114.00	0115.00	0117.00	0118.00	0120.00	0121.00	0122.00	0123.00
	0124.00	0125.00	0155.00	0161.00	0162.98	0163.00	0176l98	0177.00	0178.00	0179.02	0180.00	0201.98
	0208.00	0209.00	0229.00	0231.00	0232.00	0233.00	0234.00	0605.00	0606.00			
San Mateo County	6102.00	6117.00	6120.00									
San Jose, CA												
Santa Clara County	5003.00	5008.00	5009.00	5010.00	5013.00	5014.00	5015.00	5016.00	5017.00	5031.01	5036.02	5037.02
	5037.03	5052.01	5116.02	5126.01								
San Luis Obispo-Paso Robles, CA												
San Luis Obispo County	0109.00											
Santa Barbara-Santa Maria-Lompoc, CA												
Santa Barbara County	0009.00	0023.04	0024.02	0024.03	0024.04	0025.00	0027.02	0027.06	0029.02	0029.03	0029.11	0029.12
Santa Cruz-Watsonville, CA												
Santa Cruz County	1007.00	1008.00	1010.00	1103.00	1104.98	1201.00						
Santa Fe, NM												
Santa Fe County	0003.00	0010.02	0101.01									
Santa Rosa, CA												
Sonoma County	1514.00	1519.00	1520.00									
Sarasota-Bradenton, FL												
Manatee County	0001.03	0007.01	0015.02									
Sarasota County	0003.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Savannah, GA												
Chatham County	0001.00	0006.01	0010.00	0011.00	0012.00	0013.00	0015.00	0017.00	0018.00	0019.00	0020.00	0021.00
	0022.00	0023.00	0024.00	0025.00	0027.00	0028.00	0032.00	0044.00	0101.01	0106.04	.....	.....
Scranton-Wilkes-Barre-Hazleton, PA												
Lackawanna County	1002.00	1007.00	1015.00	1029.00	.....	.....	.....	.....	.....	.....	.....	.....
Luzerne County	2001.00	2009.00	2010.00	2125.00	2135.00	2174.00	.....	.....	.....	.....	.....	.....
Seattle-Bellevue-Everett, WA												
Island County	9702.00	9709.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
King County	0047.00	0053.01	0053.02	0071.00	0072.00	0073.00	0074.00	0075.00	0079.00	0080.00	0081.00	0082.00
	0084.00	0085.00	0086.00	0087.00	0090.00	0091.00	0092.00	0103.00	0107.00	0109.00	0110.00	0112.00
	0259.00	0263.00	0265.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Snohomish County	0402.00	0404.00	0407.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sharon, PA												
Mercer County	0302.00	0307.00	0308.00	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sheboygan, WI												
Sheboygan County	0005.00	0006.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sherman-Denison, TX												
Grayson County	0005.02	0016.01	0016.02	.....	.....	.....	.....	.....	.....	.....	.....	.....
Shreveport-Bossier City, LA												
Bossier Parish	0103.00	0104.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Caddo Parish	0202.00	0204.00	0206.00	0207.00	0208.00	0209.00	0211.00	0213.00	0217.00	0218.00	0219.00	0223.00
	0232.00	0233.00	0235.00	0236.00	0237.00	0246.00	.....	.....	.....	.....	.....	.....
Webster Parish	0317.00	0319.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sioux City, IA–NE												
Woodbury County	0012.00	0013.00	0015.00	0016.00	.....	.....	.....	.....	.....	.....	.....	.....
Sioux Falls, SD												
Minnehaha County	0007.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
South Bend, IN												
St. Joseph County	0006.00	0010.00	0018.00	0019.00	0020.00	0021.00	0023.00	0029.00	0030.00	.....	.....	.....
Spokane, WA												
Spokane County	0001.00	0016.00	0020.00	0022.00	0024.00	0025.00	0027.00	0030.00	0032.00	0033.00	0034.00	0035.00
	0036.00	0140.01	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Springfield, IL												
Sangamon County	0008.00	0009.00	0014.00	0015.00	0016.00	0017.00	0023.00	.....	.....	.....	.....	.....
Springfield, MO												
Greene County	0001.00	0002.00	0005.00	0006.00	0007.00	0016.00	0018.02	0020.00	0032.02	0033.00	.....	.....
Springfield, MA												
Hampden County	8006.00	8007.00	8008.00	8009.00	8012.00	8014.01	8015.02	8018.00	8019.00	8020.00	8114.00	8115.00
	8116.00	8117.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Hampshire County	8204.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Stamford-Norwalk, CT												
Fairfield County	0201.00	0214.00	0441.00	0445.00	.....	.....	.....	.....	.....	.....	.....	.....
State College, PA												
Centre County	0120.00	0121.00	0125.00	0126.00	.....	.....	.....	.....	.....	.....	.....	.....
Steubenville-Weirton, OH–WV												
Jefferson County	0001.00	0002.00	0003.00	0008.00	.....	.....	.....	.....	.....	.....	.....	.....
Brooke County	0302.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Stockton-Lodi, CA												
San Joaquin County	0001.00	0002.00	0005.00	0006.00	0007.00	0008.00	0016.00	0017.00	0022.00	0023.00	0025.00	0027.01
	0031.13	0033.04	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Sumter, SC												
Sumter County	0001.00	0013.00	0015.00	0016.00	.....	.....	.....	.....	.....	.....	.....	.....
Syracuse, NY												
Cayuga County	0419.00	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Onondaga County	0005.00	0013.00	0022.00	0023.00	0030.00	0031.00	0032.00	0033.00	0034.00	0035.00	0038.00	0039.00
	0040.00	0041.00	0042.00	0043.00	0052.00	0053.00	0054.00	0056.02	0061.02	.....	.....	.....

IRS Section 42(d)(5)(C) Qualified Census Tracts (1990 Data, MSA Definitions June 1993)—Metropolitan Areas—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Tacoma, WA												
Pierce County	0613.00	0614.00	0615.00	0616.01	0616.02	0617.00	0622.00	0627.00	0718.02	0720.00		
Tallahassee, FL												
Gadsden County	0207.00											
Leon County	0001.00	0004.00	0005.00	0006.00	0010.01	0011.01	0012.00	0013.00	0014.00	0020.01	0020.02	
Tampa-St. Petersburg-Clearwater, FL												
Hillsborough County	0007.00	0012.00	0018.00	0019.00	0020.00	0026.00	0030.00	0031.00	0032.00	0033.00	0034.00	0035.00
	0037.00	0038.00	0039.00	0040.00	0041.00	0043.00	0044.00	0050.00	0051.00	0109.00	0129.00	
Pasco County	0324.00	0327.00										
Pinellas County	0205.00	0206.00	0207.00	0208.00	0209.95	0210.95	0212.00	0213.00	0214.00	0215.00	0216.95	0259.02
	0262.00											
Terre Haute, IN												
Vigo County	0001.00	0003.00	0005.00	0006.00	0008.00	0019.00						
Texarkana, TX-Texarkana, AR												
Miller County	0203.00	0204.00	0206.98									
Bowie County	0102.00	0103.00	0105.00									
Toledo, OH												
Lucas County	0008.00	0012.02	0013.04	0014.00	0015.00	0017.00	0018.00	0019.00	0020.00	0021.00	0022.00	0023.00
	0025.00	0026.00	0027.00	0028.00	0029.00	0030.00	0032.00	0033.00	0034.00	0035.00	0036.00	0037.00
	0038.00	0041.00	0042.00	0043.01	0048.00	0054.00	0068.00	0073.03				
Wood County	0217.02	0218.00										
Topeka, KS												
Shawnee County	0001.00	0002.00	0003.00	0004.00	0005.00	0006.00	0011.00					
Trenton, NJ												
Mercer County	0001.00	0008.00	0009.00	0010.00	0011.00	0014.00	0015.00	0016.00	0017.00	0019.00	0020.00	0021.00
Tucson, AZ												
Pima County	0001.00	0003.00	0004.00	0005.00	0008.00	0009.00	0010.00	0012.00	0013.01	0013.02	0014.00	0015.00
	0023.00	0024.00	0026.01	0037.02	0038.00	0041.04	0042.00	0048.00	0049.00			
Tulsa, OK												
Creek County	0210.00											
Osage County	0104.00											
Tulsa County	0002.00	0005.00	0006.00	0007.00	0009.00	0010.00	0012.00	0013.00	0021.00	0023.00	0025.00	0026.00
	0030.00	0046.00	0062.00	0073.11	0076.08	0079.00	0080.01	0088.00	0091.01			
Tuscaloosa, AL												
Tuscaloosa County	0104.04	0111.00	0112.00	0114.00	0117.01	0118.00	0119.00					
Tyler, TX												
Smith County	0002.02	0004.00	0005.00	0006.00	0007.00							
Utica-Rome, NY												
Herkimer County	0104.00	0111.01										
Oneida County	0202.01	0203.00	0204.00	0205.00	0206.00	0207.00	0208.01	0208.03	0209.00	0211.03	0212.01	0215.00
	0218.00											
Vallejo-Fairfield-Napa, CA												
Napa County	2001.00											
Solano County	2509.00	2518.02										
Ventura, CA												
Ventura County	0002.00	0006.00	0023.00	0024.00	0028.02	0032.00	0034.02	0035.00	0038.00	0043.01	0045.01	0046.00
	0049.00	0050.02										
Victoria, TX												
Victoria County	0001.00	0003.01	0003.02	0006.01								
Vineland-Millville-Bridgeton, NJ												
Cumberland County	0201.00	0203.00	0205.00	0401.00								
Visalia-Tulare-Porterville, CA												
Tulare County	0003.02	0011.00	0029.01	0040.00	0041.00	0044.00						
Waco, TX												
McLennan County	0001.00	0002.00	0003.00	0004.00	0007.00	0010.00	0012.00	0014.00	0015.00	0019.00	0033.00	

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—METROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Washington, DC–MD–VA–WV												
District of Columbia	0021.01	0022.02	0025.02	0028.01	0028.02	0029.00	0030.00	0031.00	0032.00	0034.00	0035.00	0036.00
	0037.00	0038.00	0043.00	0045.00	0046.00	0047.00	0048.01	0048.02	0049.01	0049.02	0050.00	0052.20
	0057.01	0058.00	0059.00	0060.20	0064.10	0071.00	0072.00	0073.02	0073.04	0074.01	0074.04	0074.06
	0074.07	0074.08	0074.09	0074.30	0075.02	0075.03	0075.04	0076.01	0077.03	0077.08	0077.09	0078.03
	0078.04	0078.07	0078.08	0078.09	0078.60	0079.01	0079.03	0084.02	0085.10	0087.01	0087.02	0088.02
	0088.03	0088.04	0089.03	0089.04	0090.01	0091.02	0092.03	0092.10	0092.40	0093.02	0096.02	0097.00
	0098.03	0098.04	0098.05	0098.06	0098.08	0098.10	0098.20	0099.03	0099.04	0099.05	0099.06	0099.07
Charles County	8502.01											
Frederick County	7501.00	7503.00	7509.00									
Montgomery County	7009.04	7019.00	7025.00									
Prince George's County	8011.01	8029.03	8034.01	8035.09	8056.00							
Arlington County	1033.00											
Culpeper County	9903.00	9904.00										
Fairfax County	4215.00	4219.85										
Prince William County	9009.03											
Warren County	0204.00	0205.00										
Fredericksburg city	0002.00	0004.98										
Berkeley County	9713.00	9715.00	9716.00	9717.00	9720.00							
Jefferson County	9724.00											
Waterbury, CT												
New Haven County	3501.00	3502.00	3503.00	3504.00	3505.00	3506.00	3522.00					
Waterloo-Cedar Falls, IA												
Black Hawk County	0001.00	0002.00	0003.00	0007.00	0008.00	0009.00	0017.01					
West Palm Beach-Boca Raton, FL												
Palm Beach County	0013.00	0014.03	0014.04	0015.00	0019.02	0021.00	0022.00	0023.00	0024.00	0025.00	0026.00	0051.00
	0052.02	0059.13	0061.00	0067.00	0068.02	0075.02	0077.12	0080.01	0080.02	0082.01	0082.02	0083.01
	0083.02											
Wheeling, WV–OH												
Belmont County	0116.00	0121.00										
Ohio County	0001.00	0004.00	0007.00	0008.00	0024.00							
Wichita, KS												
Sedgwick County	0001.00	0004.00	0006.00	0007.00	0008.00	0009.00	0018.00	0024.00	0026.00	0027.00	0037.00	0041.00
	0042.00	0065.00	0068.00	0078.00								
Wichita Falls, TX												
Wichita County	0101.00	0102.00	0103.00	0104.00	0105.00	0111.00	0112.00	0113.00	0116.00			
Williamsport, PA												
Lycoming County	0004.00	0007.00	0008.00									
Wilmington-Newark, DE–MD												
New Castle County	0001.00	0006.02	0007.00	0008.00	0009.00	0017.00	0019.00	0020.00	0021.00	0022.00	0145.01	
Wilmington, NC												
New Hanover County	0101.00	0108.00	0110.00	0111.00	0113.00	0114.00						
Worcester, MA–CT												
Worcester County	7312.01	7312.02	7313.00	7314.00	7315.00	7317.00	7318.00	7319.00	7320.01	7325.00	7572.00	
Yakima, WA												
Yakima County	0001.00	0002.00	0006.00	0015.00								
Yolo, CA												
Yolo County	0101.01	0102.03	0105.01	0106.02	0116.98							
York, PA												
York County	0002.00	0005.00	0007.00	0010.00	0016.00							
Youngstown, OH												
Columbiana County	9521.00	9522.00	9525.98									
Mahoning County	8002.00	8005.00	8006.00	8007.00	8009.00	8010.00	8017.00	8019.00	8020.00	8021.00	8022.00	8023.00
	8031.00	8032.00	8034.00	8035.00	8037.00	8040.00	8044.00	8103.00	8104.00			
Trumbull County	9201.00	9205.00	9206.00									
Yuba City, CA												
Yuba County	0405.00											
Yuma, AZ												
Yuma County	0001.00	0105.00	0114.00	0115.00								

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—NONMETROPOLITAN AREAS

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Alabama												
Bullock County	9521.00											
Butler County	9531.00	9534.00										
Clarke County	9580.00											
Dallas County	9964.00	9965.00	9969.00	9970.00	9972.00	9973.00						
Escambia County	9702.00	9706.00										
Greene County	9743.00	9745.00	9746.00									
Hale County	9746.00	9747.00	9748.00	9749.00								
Lee County	0401.00	0402.00	0406.00	0407.00	0408.00	0415.00	0416.00					
Lowndes County	9810.00	9811.00										
Macon County	9817.00											
Marengo County	9828.00											
Monroe County	9857.00	9858.00										
Perry County	9871.00	9872.00										
Pickens County	9881.00											
Pike County	9889.00											
Sumter County	9912.00	9915.00										
Talladega County	0106.00	0118.00										
Wilcox County	9947.00	9949.00	9950.00	9951.00								
Alaska												
Bethel	9513.98	9514.98										
Dillingham	9716.98											
Fairbanks North Star Borough	0001.00											
Kenai Peninsula Borough	9543.00											
Matanuska-Susitna Borough	9743.00	9744.00										
Nome	9510.00											
Valdez-Cordova	9861.00											
Wade Hampton	9712.00											
Yukon-Koyukuk	9604.00	9605.00	9606.00	9607.98								
Arizona												
Apache County	9760.00	9771.00	9772.00	9773.00	9774.00	9775.00	9778.00					
Cochise County	0009.00											
Coconino County	0008.00	0010.00	0022.00	0024.00	0025.00							
Gila County	9850.00											
Graham County	9950.00											
La Paz County	0201.00											
Navajo County	9651.00	9652.00	9653.00	9660.00	9671.00	9672.00	9674.00	9675.00	9676.00			
Arkansas												
Chicot County	9802.00	9804.00										
Desha County	9503.00											
Garland County	0106.00	0107.00	0108.00	0115.00								
Lee County	9704.00											
Phillips County	9804.00	9805.00	9806.00									
California												
Humboldt County	0010.00											
Imperial County	0114.00	0120.00	0121.00	0124.00	0125.00							
Kings County	0011.00	0013.00										
Nevada County	0010.00	0011.00										
Colorado												
Conejos County	9746.00	9747.00	9748.00									
Costilla County	9827.00											
Delta County	9648.00											
Elbert County	9911.00											
Huerfano County	9808.00											
Las Animas County	9832.00											
Mesa County	0001.00	0002.00										
Montezuma County	9695.00											
Otero County	9880.00											
Connecticut												
Litchfield County	3103.00											
Florida												
Dixie County	9803.98											
Indian River County	0503.02											
Monroe County	9701.00											
Putnam County	9508.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—NONMETROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Georgia												
Bulloch County	9904.00											
Burke County	9503.00	9504.00	9508.00									
Clay County	9601.00											
Colquitt County	9703.00											
Dodge County	9606.00											
Dooly County	9702.00											
Early County	9904.00											
Emanuel County	9807.00											
Floyd County	0011.00	0016.00										
Glynn County	0008.00											
Hancock County	9801.00											
Jefferson County	9604.00											
Laurens County	9509.00											
Liberty County	0106.00											
Lowndes County	0108.00	0109.00	0110.00	0113.00								
Mitchell County	9803.00											
Randolph County	9901.00											
Screven County	9701.00											
Telfair County	9503.00											
Thomas County	9601.00											
Tift County	9906.00											
Ware County	9504.00	9507.00										
Warren County	9702.00	9703.00										
Wilcox County	9903.00											
Hawaii												
Hawaii County	0211.00											
Kauai County	0410.00											
Maui County	0301.00	0313.00	0317.00	0318.00								
Idaho												
Bannock County	0009.00	0016.01										
Bingham County	9508.00											
Bonneville County	9701.00	9712.00										
Kootenai County	0009.00											
Latah County	0054.00											
Twin Falls County	9811.00											
Illinois												
Adams County	0004.00	0007.00	0008.00									
Alexander County	9577.00	9579.00										
Christian County	9589.00											
Coles County	0004.00	0008.00										
Franklin County	0407.00											
Hamilton County	9731.00											
Hardin County	9709.00											
Jackson County	0109.00	0111.00	0112.00	0113.00	0114.00							
Jefferson County	0510.00											
Knox County	0008.00											
La Salle County	9633.00											
McDonough County	0104.00	0105.00	0108.00									
Pulaski County	9711.00											
Saline County	9555.00	9559.00										
Vermilion County	0001.00											
Indiana												
Henry County	9765.00											
Knox County	9553.00											
La Porte County	0402.00											
Wayne County	0002.00	0003.00										
Iowa												
Lee County	9908.00											
Story County	0005.00	0007.00										
Wapello County	9605.00											
Webster County	0007.00	0008.00										
Kansas												
Cherokee County	9585.00											
Crawford County	9575.00											
Ellis County	9729.00											
Montgomery County	9510.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—NONMETROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Riley County	0004.00	0008.00										
Kentucky												
Bell County	9601.00	9602.00	9609.00									
Boyle County	9903.00											
Breathitt County	9801.00	9806.00	9807.00									
Clay County	9501.00	9504.00	9506.00									
Clinton County	9702.00											
Franklin County	0702.00											
Hardin County	0015.00											
Jackson County	9601.00	9602.00										
Knott County	9601.00											
Knox County	9901.00	9902.00	9906.00	9907.00	9908.00							
Lawrence County	9902.00	9903.00										
Lee County	9502.00											
Leslie County	9802.00											
McCracken County	0301.00	0302.00	0303.00	0304.00	0306.00							
McCreary County	9601.00	9602.00	9604.00									
Magoffin County	9701.00											
Marion County	9708.00											
Morgan County	9501.00											
Owsley County	9901.00	9902.00	9903.00									
Perry County	9701.00	9707.00										
Warren County	0101.00	0102.00	0103.00	0104.00	0105.00							
Wayne County	9803.00	9805.00	9806.00									
Whitley County	9808.00											
Wolfe County	9901.00	9903.00										
Louisiana												
Allen Parish	9503.00											
Concordia Parish	9902.00											
East Carroll Parish	9903.00											
Evangeline Parish	9505.00											
Iberia Parish	0308.00	0309.00	0310.00									
Lincoln Parish	9603.00	9608.00	9609.00									
Madison Parish	9603.00	9604.00										
Morehouse Parish	9504.00											
Natchitoches Parish	9907.00											
Pointe Coupee Parish	9520.00											
St. Mary Parish	0416.00											
Tangipahoa Parish	9533.00	9536.00	9543.00									
Tensas Parish	9803.00											
Vermilion Parish	9508.00											
Maine												
Franklin County	9901.00											
Somerset County	9852.00											
Maryland												
Dorchester County	9705.00											
Somerset County	9806.00											
Wicomico County	0003.00											
Worcester County	9909.00											
Massachusetts												
Berkshire County	9211.00											
Franklin County	0413.00											
Michigan												
Cass County	0009.00											
Clare County	9809.00	9812.00										
Houghton County	9903.00											
Iosco County	9904.00	9905.00										
Isabella County	9511.00											
Keweenaw County	9601.00											
Lake County	9604.00	9606.00	9607.00									
Marquette County	0003.00	0005.00										
Newaygo County	9702.00											
Ogemaw County	9508.00											
Roscommon County	9702.00											
St. Joseph County	0404.00											
Shiawassee County	0312.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—NONMETROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Minnesota												
Aitkin County	9903.00											
Beltrami County	9508.00											
Cass County	9612.00											
Hubbard County	9706.00											
Koochiching County	9906.00											
Mahnomen County	9603.00											
Pennington County	9904.00											
Wadena County	9801.00											
Winona County	9705.00											
Mississippi												
Adams County	0003.00	0004.00										
Bolivar County	9501.00	9502.00	9503.00	9504.00								
Coahoma County	9501.00	9506.00	9507.00									
Forrest County	0001.00	0004.00	0005.00	0006.00	0009.00							
Holmes County	9502.00	9503.00	9504.00	9505.00								
Humphreys County	9503.00											
Jefferson County	9501.00	9502.00										
Jones County	9507.00											
Lafayette County	9503.00											
Lauderdale County	0001.00	0002.00	0004.00	0006.00	0007.00							
Leflore County	9502.00	9508.00	9509.00									
Lowndes County	0007.00	0008.00	0011.00									
Pike County	9503.00											
Sunflower County	9503.00	9505.00										
Tallahatchie County	9504.00											
Tunica County	9501.00	9502.00										
Warren County	9503.00	9504.00										
Washington County	0004.00	0005.00	0006.00	0010.00	0011.00	0018.00	0020.00					
Wilkinson County	9502.00											
Yazoo County	9505.00											
Missouri												
Adair County	9503.00	9506.00	9509.00									
Butler County	9505.00	9507.00										
Cape Girardeau County	9809.00	9810.00	9814.00	9816.00								
Cole County	0101.00											
Dent County	9603.00											
Livingston County	9805.00											
Oregon County	9801.00											
Pemiscot County	9702.00											
Phelps County	9904.00											
Ripley County	9704.00											
Scott County	9809.00											
Montana												
Big Horn County	9642.00											
Blaine County	9725.00											
Flathead County	0010.00											
Gallatin County	9866.00											
Glacier County	9762.00											
Hill County	9737.00											
Lewis and Clark County	9789.00	9796.00										
Missoula County	0002.01	0003.00										
Rosebud County	9627.00											
Silver Bow County	0001.00											
Nebraska												
Adams County	9661.00											
Lincoln County	9601.00											
Nevada												
Elko County	9501.00	9505.00	9506.00	9515.00								
Humboldt County	9603.00											
Lyon County	9606.00											
New Mexico												
Chaves County	0001.00	0006.00										
Cibola County	9746.00											
Guadalupe County	9617.00	9618.00										
Lea County	0001.00	0004.00										
Lincoln County	9804.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—NONMETROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Luna County	9868.00											
McKinley County	9721.00	9723.00	9725.00	9726.00	9727.00							
Mora County	9552.00											
Otero County	0001.00	0008.00										
San Juan County	0008.00	0009.00	0010.01	0010.02								
San Miguel County	9571.00	9577.00										
Socorro County	9784.00											
Taos County	9529.00											
New York												
Cattaraugus County	9619.00	9620.00	9622.00									
Clinton County	1011.00											
Columbia County	9912.00											
Jefferson County	0620.00											
St. Lawrence County	9911.00	9912.00	9922.00									
Tompkins County	0001.00	0002.00	0003.00	0004.00	0010.00	0012.00						
North Carolina												
Columbus County	9909.00											
Craven County	9608.00	9609.00										
Halifax County	9908.00											
Lee County	0302.00	0303.00										
Lenoir County	0103.00	0104.00	0107.00									
Pasquotank County	9603.00											
Robeson County	9608.00											
Watauga County	9805.00											
Wilson County	0002.00	0007.00	0008.01									
North Dakota												
Benson County	9567.00											
McKenzie County	9626.00											
Rolette County	9517.00	9518.00										
Sioux County	9660.00											
Ward County	0101.00											
Ohio												
Adams County	9904.00	9905.00	9906.00									
Athens County	9731.00											
Coshocton County	9914.00											
Erie County	0408.00											
Jackson County	9576.00											
Marion County	0001.00	0009.00										
Meigs County	9644.00											
Muskingum County	9821.00											
Scioto County	9931.00	9932.00	9935.00	9936.00	9937.00	9939.00						
Oklahoma												
Atoka County	9876.00											
Bryan County	9956.00	9964.00	9965.00									
Carter County	9928.00											
Choctaw County	9972.00	9973.00										
Grady County	0001.00	0002.00										
Hughes County	9848.00											
McCurtain County	9987.00											
McIntosh County	9799.00											
Muskogee County	0004.00	0005.00	0006.00									
Okfuskee County	9808.00											
Okmulgee County	0001.00											
Payne County	0104.00	0105.00	0107.00									
Pontotoc County	9891.00	9892.00										
Pushmataha County	9976.00											
Stephens County	0005.00	0006.00	0007.00									
Tillman County	9704.00	9706.00										
Washington County	0002.00											
Oregon												
Benton County	0007.00	0008.00	0011.00									
Clatsop County	9508.00											
Union County	9707.00											
Pennsylvania												
Clinton County	9706.00											
Crawford County	1116.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—NONMETROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Lawrence County	0004.00	0005.00	0006.00	0009.00	0118.98							
Northumberland County	9616.00	9617.00										
Schuylkill County	0006.00											
Rhode Island												
Newport County	0405.00	0412.00										
South Carolina												
Bamberg County	9601.00											
Beaufort County	0001.00	0011.00										
Clarendon County	9608.00											
Darlington County	0107.00											
Dillon County	9704.00											
Greenwood County	9705.00											
Hampton County	9804.00											
Lancaster County	0107.00											
Lee County	9806.00											
Marlboro County	9602.00											
Orangeburg County	0112.00	0113.00										
South Dakota												
Brown County	9515.00											
Buffalo County	9746.00											
Clay County	9656.00											
Jackson County	9912.00											
Shannon County	9936.00	9937.00										
Todd County	9927.00											
Ziebach County	9871.00											
Tennessee												
Bradley County	0104.00	0107.00	0108.00									
Campbell County	9503.00											
Fentress County	9651.00											
Hamblen County	1003.00											
Hancock County	9601.00	9602.00	9603.00									
Haywood County	9807.00											
Henry County	9693.00											
McMinn County	9702.00											
Marshall County	9553.00											
Maury County	0105.00											
Putnam County	0008.00											
Texas												
Anderson County	9507.00											
Angelina County	0005.00											
Atascosa County	9603.00											
Brooks County	9502.00											
Brown County	9506.00	9507.00										
Cooke County	9905.00											
Dimmit County	9501.00	9502.00	9503.00									
Duval County	9503.00											
Falls County	9904.00											
Freestone County	9809.00											
Frio County	9502.00	9503.00										
Gray County	9508.00											
Hall County	9505.00											
Hill County	9609.00											
Howard County	9503.00	9505.00										
Hutchinson County	9507.00											
Jim Hogg County	9501.00	9503.00										
Jim Wells County	9506.00											
Kleberg County	0202.00											
Lamar County	0005.00	0006.00	0008.00									
La Salle County	9502.00											
Lynn County	9503.00											
McCulloch County	9503.00											
Maverick County	9502.00	9504.00	9505.00	9506.00								
Nacogdoches County	9506.00	9509.00										
Pecos County	9503.00											
Presidio County	9502.00											
Reeves County	9505.00											
Robertson County	9602.00											

IRS SECTION 42(d)(5)(C) QUALIFIED CENSUS TRACTS (1990 DATA, MSA DEFINITIONS JUNE 1993)—NONMETROPOLITAN AREAS—Continued

County or county equivalent	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract	Tract
Starr County	9501.00	9502.00	9504.00	9505.00	9506.00	9507.00						
Terry County	9503.00											
Val Verde County	9506.00											
Walker County	1905.00	1906.00	1907.00									
Wharton County	1403.00											
Willacy County	9502.00	9503.00	9506.00									
Zapata County	9502.00											
Zavala County	9501.00	9502.00	9503.00									
Utah												
Cache County	0016.00											
Carbon County	9716.00											
Juab County	9732.00											
San Juan County	9783.00	9784.00										
Wasatch County	9925.00											
Vermont												
Addison County	9622.97											
Virginia												
Lee County	9901.00	9904.00	9905.00	9906.00								
Montgomery County	0204.00	0216.98										
Franklin city	0902.00											
Radford city	0101.00											
Staunton city	0001.00											
Washington												
Asotin County	9803.00											
Cowlitz County	0001.00	0003.00	0005.02	0010.00								
Grays Harbor County	0010.00											
Kittitas County	9756.00											
Mason County	9608.00	9614.00										
Stevens County	9510.00											
Walla Walla County	9205.00											
Whitman County	0001.00	0005.00	0006.00									
West Virginia												
Lincoln County	9558.00											
McDowell County	9540.00	9542.00										
Marion County	0201.00	0205.00										
Monongalia County	0101.00	0102.00	0103.00									
Wisconsin												
Ashland County	9501.00											
Fond du Lac County	0406.00											
Menominee County	9701.00											
Portage County	9610.00											
Sawyer County	9807.00											
Vilas County	9509.00											
Walworth County	0005.00											
Wyoming												
Albany County	9629.00	9630.00	9633.00	9634.00								
Fremont County	9826.00	9832.00										
Hot Springs County	9876.00											
Platte County	9592.00											
Sweetwater County	9715.00											

[FR Doc. 94–26217 Filed 10–21–94; 8:45 am]
BILLING CODE 4210–32–P

federal register

Monday
October 24, 1994

Part III

Department of Housing and Urban Development

Office of the Secretary
Office of the General Counsel
Office of Fair Housing and Equal Opportunity

Revocation and Redelegation of Authority Pertaining to HUD's Fair Housing Complaint Processing Regulations

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D–94–1075; FR–3791–D–01]

Revocation of Authority

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of revocation of authority pertaining to HUD's Fair Housing Complaint Processing regulations.

SUMMARY: This notice is made in accordance with a rule amending portions of HUD's Fair Housing Complaint Processing regulations at 24 CFR Part 103. Notice of the final rule, effective September 30, 1994, was published in the **Federal Register** on August 5, 1994 (59 FR 39955). A technical correction to this rule, also effective September 30, 1994, was published in the **Federal Register** on September 12, 1994 (59 FR 46759).

This rule change pertains to determinations of reasonable cause to believe that a discriminatory housing practice has occurred, implementing section 810(g) of the Fair Housing Act (the Act). It also pertains to the referral of matters to the Attorney General due to breaches of Conciliation Agreements, pursuant to section 810(c) of the Act. The rule change affect responsibilities and prior delegations of authority from the Secretary to the General Counsel and to the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO). The Secretary is herein revoking certain authority previously delegated to the General Counsel.

EFFECTIVE DATE: September 30, 1994.

FOR FURTHER INFORMATION CONTACT: Sara K. Pratt, Director, Office of Investigations, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW., Room 5206, Washington, DC 20410–2000; telephone (202) 708–0836. [This is not a toll-free number.] A telecommunications device for hearing impaired persons (TDD) is available at 1–800–543–8294.

SUPPLEMENTARY INFORMATION: Effective September 30, 1994, the Department is amending portions of 24 CFR 103.335, 103.400, and 103.405 of HUD's Fair Housing Complaint Processing regulations at 214 CFR Part 103. Notice of the final rule was published in the **Federal Register** on August 5, 1994 (59 FR 39955), and notice of a technical correction to the rule was published in the **Federal Register** on September 12, 1994 (59 FR 46759). This rule change pertains to determinations of reasonable cause to believe that a discriminatory housing practice has occurred, implementing section 810(g) of the Fair Housing Act (the Act). If further pertains to the referral of matters to the Attorney General due to breaches of Conciliation Agreements, under section 810(c) of the Act. In summary, the Assistant Secretary for FHEO, upon concurrence by the General Counsel, makes determinations that reasonable cause exists to believe that a discriminatory housing practice has occurred. Upon receipt of concurrence by the General Counsel, the Assistant Secretary will issue such determinations and direct the issuance of charges under 24 CFR 103.405.

Accordingly, the Secretary revokes, in whole or in part, delegations of authority as follows:

Section A. Authority Revoked

1. The Secretary revokes, in part, the delegation of authority to the General Counsel and Deputy General Counsel published on March 30, 1989, at 54 FR 13121, part A.(2)(a) pertaining to sections 810(c), 810(g) and 810(h) of the Fair Housing Act. The delegation herein revoked pertains to authority regarding the failure to comply with Conciliation Agreements [810(c)]; and the making of reasonable cause determinations [810(g)]. This revocation does not affect the remaining authority delegated to the General Counsel and Deputy General Counsel published March 30, 1989 at 54 FR 13121, Section A(2)(a), including the authority under Sections 807(b)(2)(A), 810(e), 810(h), 812(i), and 812(j) of the Act.

2. The Secretary revokes the delegation of authority to the General Counsel, published on October 8, 1992, at 57 FR 46398. In 57 FR 46398, the Secretary delegated to the General Counsel the authority to reopen, for purposes of reconsideration, determinations of no reasonable cause made by the Assistant Secretary for FHEO, or determinations of no reasonable cause made by the Directors of the HUD Regional Offices for FHEO. The authority previously delegated to the General Counsel is hereby revoked pursuant to an amendment to the complaint processing procedures at 24 CFR 103.400, effective September 30, 1994, whereby the Assistant Secretary for FHEO is authorized, upon receipt of concurrence by the General Counsel, both to determine that reasonable cause exists and to direct the issuance of a charge.

3. The Secretary revokes the delegation of authority to the General Counsel published on December 1, 1992, at 57 FR 56926. The December 1, 1992 publication simply corrected a typographical error that appeared in the notice of delegation of authority published in the **Federal Register** on October 8, 1992, at 57 FR 46398.

Authority: Sec. 7(d), Department of Housing and Urban Development Act [42 U.S.C. 3535(d)].

Dated: October 13, 1994.

Henry G. Cisneros,

Secretary of Housing and Urban Development.

[FR Doc. 94–26213 Filed 10–21–94; 8:45 am]

BILLING CODE 4210–32–M

Office of the General Counsel

[Docket No. D–94–1076; FR–3792–D–01]

Revocation and Redelegation of Authority

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice of revocations and redelegation of authority pertaining to HUD's fair housing complaint processing regulations.

SUMMARY: This notice is made in accordance with a rule amending portions of HUD's Fair Housing Complaint Processing regulations at 24 CFR Part 103. Notice of the final rule, effective September 30, 1994, was published in the **Federal Register** on August 5, 1994 (59 FR 39955). A technical correction to this final rule, also effective September 30, 1994, was published in the **Federal Register** on September 12, 1994 (59 FR 46759). This rule change pertains to determinations of reasonable cause to believe that a discriminatory housing practice has occurred, implementing section 810(g) of the Fair Housing Act (the Act). It further pertains to the referral of matters to the Attorney General due to breaches of conciliation agreements, under section 810(c) of the Act. The rule change affects certain redelegations of authority from the General Counsel, which are herein revoked, and also requires a new redelegation of authority from the General Counsel. As a result of the rule change, determinations of reasonable cause shall be made by the Assistant Secretary for FHEO, upon concurrence of the General Counsel. The Assistant Secretary of FHEO will issue such determinations and direct the issuance of charges, with concurrence of the General Counsel, under § 103.405.

EFFECTIVE DATE: September 30, 1994.

FOR FURTHER INFORMATION CONTACT: Harry L. Carey, Assistant General Counsel for Fair Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9238, Washington,

DC 20410; telephone (202) 708–0570. [This is not a toll-free number.] A telecommunications device for hearing impaired persons (TDD) is available at 1–800–543–8294.

SUPPLEMENTARY INFORMATION: Effective September 30, 1994, the Department is amending portions of 24 CFR 103.335, 103.400, and 103.405 of HUD's Fair Housing Complaint Processing regulations at 24 CFR Part 103. Notice of the final rule was published in the **Federal Register** on August 5, 1994 (59 FR 39955) and notice of a technical correction to the rule was published in the **Federal Register** on September 12, 1994 (59 FR 46759). This rule change pertains to determinations of reasonable cause to believe that a discriminatory housing practice has occurred, implementing section 810(g) of the Fair Housing Act (the Act). It further pertains to the referral of matters to the Attorney General due to breaches of conciliation agreements, under section 810(c) of the Act. In summary, the Secretary is now delegating to the Assistant Secretary for FHEO, with the concurrence of the General Counsel, certain functions which were previously performed by the General Counsel. The Assistant Secretary for FHEO, with concurrence of the General Counsel, rather than only the General Counsel, will be authorized to make determinations that reasonable cause exists to believe that a discriminatory housing practice has occurred. Upon receipt of concurrence by the General Counsel, the Assistant Secretary will issue determinations and direct the issuance of charges under 103.405.

The rule change affects prior HUD delegations and redelegations of authority, and requires new redelegations. Thus, published elsewhere in today's **Federal Register**, the Secretary revokes particular delegations, the Assistant Secretary for FHEO revokes a redelegation of authority, and the Assistant Secretary issues new redelegations to the field as part of the assumption of new responsibilities pertaining to the Act. The General Counsel herein revokes certain prior redelegations which are inconsistent with the regulation as amended, and issues a new redelegation consistent with his responsibilities under the regulations.

Accordingly, the General Counsel revokes redelegations of authority, and the General Counsel redelegates authority, as follows:

A. Revocation of Authority

1. The General Counsel revokes the redelegation of authority published on June 7, 1990, at 55 FR 23301. Under 55 FR 23301, the General Counsel redelegated to HUD's ten Regional Counsel certain functions under 24 CFR 103.400 concerning the making of reasonable cause or no reasonable cause determinations. This redelegation is hereby revoked. Pursuant to the regulation at 24 CFR 103.400, as amended effective September 30, 1994, such determinations shall be made by the Assistant Secretary for FHEO, with concurrence of the General Counsel. Upon concurrence of the General Counsel, the Assistant Secretary for FHEO will issue such determinations and direct the issuance of charges under § 103.405.

2. The General Counsel revokes the redelegation of authority published on January 25, 1991, at 56 FR 2931. The redelegation at 56 FR 2931 was comprised of two parts. In the first part, the General Counsel redelegated to HUD's ten Regional Counsel all authority under 24 CFR 103.400, except with regard to complaints involving complex facts, novel issues of law, or the legality of local zoning or land use laws or ordinances. In the second part of 56 FR 2931, the General Counsel redelegated the authority to determine which complaints involved complex facts, novel issues of law, or the legality of local zoning or land use laws to the Associate General Counsel for Equal Opportunity and Administrative Law and to the Assistant General Counsel for Fair Housing. Pursuant to the amendments to 24 CFR 103.400, the two parts of this redelegation are herein revoked.

3. The General Counsel revokes the redelegation of authority published on February 25, 1992, at 57 FR 6518. In the 57 FR 6518 notice, the General Counsel redelegated to the Associate General Counsel for Equal Opportunity and Administrative Law the authority pursuant to 24 CFR 103.400 to refer to the Attorney General matters which were determined to involve the legality of a local zoning or land use law or ordinance.

4. The General Counsel revokes the amendment published on September 30, 1992, at 57 FR 45066. This amendment clarified the Department's policy that the General Counsel had authority under 24 CFR 103.400 to reopen determinations of no reasonable cause. Pursuant to the rule as amended, determinations of reasonable cause are no longer delegated to the General Counsel. Since determinations of reasonable cause have been delegated to the Assistant Secretary for FHEO with concurrence of the General Counsel, the authority of the General Counsel to reopen no reasonable cause determinations is herein modified. Pursuant to the rule as amended, the Assistant Secretary for FHEO, upon concurrence of the General Counsel, will issue reasonable cause determinations and will direct the issuance of charges under § 103.405

Section B. Authority Redelegated

All of the power and authority delegated to the General Counsel pursuant to the regulations at 24 CFR 103.400 and 103.405 of 24 CFR Part 103, as amended effective September 30, 1994, is retained by the General Counsel, and redelegated concurrently to the Assistant General Counsel for Fair Housing and to the Field Assistant General Counsel. This redelegation includes, but is not limited to, the authority of the General Counsel under § 103.400(a)(2)(i) to concur in reasonable cause determinations of the Assistant Secretary for FHEO.

Authority: Sec. 7(d), Department of Housing and Urban Development Act [42 U.S.C. 3535(d)].

Dated: October 3, 1994.

Nelson A. Díaz,

General Counsel.

[FR Doc. 94–26214 Filed 10–21–94; 8:45 am]

BILLING CODE 4210–01–M

Office of Fair Housing and Equal Opportunity

[Docket No. D–94–1077; FR–3793–D–01]

Revocation and Redelegation of Authority

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity (FHEO), HUD.

ACTION: Notice of revocation and redelegation of authority pertaining to HUD's fair housing complaint processing regulations.

SUMMARY: This notice is made in accordance with a rule amending portions of HUD's Fair Housing Complaint Processing regulations at 24 CFR Part 103. Notice of the final rule, effective September 30, 1994, was published in the **Federal Register** on August 5, 1994 (59 FR 39955). A technical correction to this rule, also effective September 30, 1994, was published in the **Federal Register** on September 12, 1994 (59 FR 46759). This rule change pertains to determinations of reasonable cause to believe that a discriminatory housing practice has occurred, implementing section 810(g) of the Fair Housing Act (the Act). It further pertains to the referral of matters to the Attorney General, under section

810(c) of the Act. The rule delegates additional responsibilities to the Assistant Secretary for FHEO, and affects prior delegations and redelegations pertaining to the Assistant Secretary for FHEO and the General Counsel. Thus, the Assistant Secretary nerein revokes certain prior redelegations of authority and issues new redelegations.

EFFECTIVE DATE: September 30, 1994.

FOR FURTHER INFORMATION CONTACT: Sara K. Pratt, Director, Office of Investigations, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 7th Street SW, Room 5206, Washington, DC 20410–2000; telephone (202) 708–0836. [This is not a toll-free number.] A telecommunications device for hearing impaired persons (TDD) is available at 1–800–543–8294.

SUPPLEMENTARY INFORMATION: Effective September 30, 1994, the Department is amending portions of 24 CFR 103.335, 103.400, and 103.405 of HUD's Fair Housing Complaint Processing regulations at 24 CFR Part 103. Notice of the final rule was published in the **Federal Register** on August 5, 1994 (59 FR 39955), and notice of a technical correction to the rule was published in the **Federal Register** on September 12, 1994 (59 FR 46759). This rule change pertains to determinations of reasonable cause to believe that a discriminatory housing practice has occurred, implementing section 810(g) of the Act. If further pertains to the referral of matters to the Attorney General, under section 810(c) of the Act. In summary, the Secretary is now delegating to the Assistant Secretary for FHEO, with the concurrence of the General Counsel, certain functions which were previously performed only by the General Counsel. The Assistant Secretary, with the concurrence of the General Counsel, will make determinations of reasonable cause. With the concurrence of the General Counsel, the Assistant Secretary will direct the issuance of charges under § 103.405.

Accordingly, the Assistant Secretary for FHEO revokes a redelegation of authority, and the Assistant Secretary for FHEO redelegates authority, as follows:

Section A. Authority Revoked

The Assistant Secretary for FHEO revokes the September 30, 1992 redelegation of authority, at 57 FR 45066, which clarified the Department's policy that the Assistant Secretary for FHEO was authorized to reopen determinations of no reasonable cause. The prior redelegation is no longer necessary since 24 CFR 103.400, as amended, gives the Assistant Secretary for FHEO the authority to reopen both reasonable cause and no reasonable cause determinations.

Section B. Authority Redelegated

All of the power and authority delegated to the Assistant Secretary for FHEO pursuant to the regulations at 24 CFR 103.335, 103.400 and 103.405 of 24 CFR Part 103, as amended effective September 30, 1994, is retained by the Assistant Secretary for FHEO, and redelegated concurrently to the Deputy Assistant Secretary for Enforcement and Investigations and to the Directors of the Fair Housing and Equal Opportunity Enforcement Centers (successors to the Directors of FHEO Regional Offices) in the field. This redelegation includes, but is not limited to, carrying out the following responsibilities:

(1) Reviewing from time to time compliance with Conciliation Agreements to determine if HUD has reasonable cause to believe that a respondent has breached the Conciliation Agreement. If the Department determines that a breach has occurred, referring the matter to the Attorney General for enforcement.

(2) With the concurrence of the General Counsel, determining that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, except in matters involving the legality of local zoning or land use laws or ordinances. Matters involving local zoning or land use laws or ordinance shall be referred to the Attorney General, in lieu of the Assistant Secretary making a determination regarding reasonable cause. The Assistant Secretary for FHEO also has the authority to make determinations of no reasonable cause.

(3) Upon receipt of concurrence by the General Counsel, directing the issuance of charges under § 103.405.

Authority: Sec. 7(d), Department of Housing and Urban Development [42 U.S.C. 3535(d)].

Dated: October 4, 1994.

Roberta Achtenberg,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 94–26215 Filed 10–21–94; 8:45 am]

BILLING CODE 4210–28–M

federal register

Monday
October 24, 1994

Part IV

The President

Proclamation 6746—National Mammography Day

Executive Order 12933—Nondisplacement of Qualified Workers Under Certain Contracts

Federal Register
Vol. 59, No. 204
Monday, October 24, 1994

Presidential Documents

Title 3—

The President

Proclamation 6746 of October 18, 1994

National Mammography Day, 1994

By the President of the United States of America

A Proclamation

The threat of breast cancer touches everyone. All women are at risk for breast cancer, including those with no family history of the disease. This year alone, 182,000 women are expected to be diagnosed with breast cancer; 46,000 will die. The risk of death is reduced significantly if the cancer can be found in the earlier, more treatable stages. With appropriate breast cancer screening and state-of-the-art care, experts expect to see a 30 percent drop in the death rate. Together, we must work to make sure that every woman is informed about breast cancer and about the importance of regular examinations, including high-quality screening mammography. And we must ensure that all women have access to this invaluable preventive care.

Today, mammography is considered the most effective method for detecting early stage breast cancer. Many cancers can be seen on a mammogram as soon as 2 years before they could be detected by a woman or her physician. But only half of all women ages 50 and older have had a mammogram in the past 2 years, and as few as 30 percent have mammograms routinely. African American women experience a higher death rate from breast cancer than white women, and recently we learned that this is primarily because they are diagnosed at more advanced stages of the disease. Researchers have concluded that if we are to improve the survival rate of African American women, we must develop strategies aimed at increasing their use of and access to early detection techniques such as mammography.

We can all be encouraged by the progress in improving and monitoring mammography. As of October 2, 1994, provisions of the Mammography Quality Standards Act of 1992, requiring national, uniform quality and safety standards, went into effect. Mammography facilities must now meet stringent requirements and be certified to ensure they are providing high-quality service. In addition, scientists currently are working to apply American know-how to improve mammography and to develop high-technology imaging methods to detect breast tumors. Digital mammography, for example, may enhance the quality of mammographic images and even magnify the view of specific areas of the breast. Scientists also are exploring such technologies as magnetic resonance imaging (MRI) and ultrasound imaging for this purpose.

In recognition of the crucial role mammography plays in the battle against breast cancer, the Congress, by Senate Joint Resolution 220, has designated October 19, 1994, as "National Mammography Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim October 19, 1994, as National Mammography Day. I invite the Governors of the 50 States and the Commonwealth of Puerto Rico, the Mayor of the District of Columbia, and the appropriate officials of all other areas under the American flag to issue similar proclamations. I ask health care professionals, private industry, advocacy groups, community associations, insurance companies, and all other interested organizations and individual citizens, for the sake of American women and

for their loved ones, to unite in publicly reaffirming our Nation's continuing commitment to the provision of breast cancer screening.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of October, 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 nineteenth.

William J. Clinton

[FR Doc. 94-26517
Filed 10-18-94; 12:14 pm]
Billing code 3195-01-P

Presidential Documents

Executive Order 12933 of October 20, 1994

Nondisplacement of Qualified Workers Under Certain Contracts

When a service contract for the maintenance of a public building expires and a follow-on contract is awarded for the same service, the successor contractor typically hires the majority of the predecessor's employees. On occasion, however, a follow-on contractor will hire a new work force, and the predecessor's employees are displaced.

As a buyer and participant in the marketplace, the Government is concerned about hardships to individuals that may result from the operation of our procurement system.

Furthermore, the Government's procurement interests in economy and efficiency benefit from the fact that a carryover work force will minimize disruption to the delivery of services during any period of transition and provide the Government the benefits of an experienced and trained work force rather than one that may not be familiar with the Government facility.

Therefore, by the authority vested in me as President by the Constitution and the laws of the United States of America, including 40 U.S.C. 486(a), and in order to promote economy and efficiency, it is hereby ordered as follows:

Section 1. *Statement of Policy.* It is the policy of the Federal Government that solicitations and building service contracts for public buildings shall include a clause that requires the contractor under a contract that succeeds a contract for performance of similar services at the same public building to offer those employees (other than managerial or supervisory employees) under the predecessor contract whose employment will be terminated as a result of the award of the successor contract, a right of first refusal to employment under the contract in positions for which they are qualified. There shall be no employment openings under the contract until such right of first refusal has been provided. Nothing in this order shall be construed to permit a contractor to fail to comply with any provision of any other Executive order or laws of the United States.

Sec. 2. *Definitions.* (a) "Public building" means any Government-owned building, whether single or multi-tenant occupancy, its grounds, approaches, and appurtenances, which is generally suitable for office or storage space or both for the use of one or more Federal agencies or mixed ownership corporations, and shall include the following: (1) Federal office buildings; (2) customhouses; (3) courthouses; (4) border inspection facilities; (5) warehouses; (6) records centers; (7) appraiser stores; and (8) relocation facilities and similar Federal facilities; but shall not include any such buildings: (A) on the public domain (including that reserved for national forests and other purposes); (B) on properties of the United States in foreign countries; (C) on Native American and Native Eskimo properties held in trust by the United States; (D) on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, including research in connection therewith; (E) on or used in connection with river, harbor, flood control, reclamation, or power projects; or for chemical manufacturing or development projects; or for nuclear production, research, or development projects; (F) on or used in connection with housing and residential projects; (G) on properties of the United States Postal Service; (H) on military installations (including any fort, camp, post, naval training station, airfield, proving

ground, military supply depot, military school, or any similar facility of the Department of Defense); (I) on installations of the National Aeronautic and Space Administration, except regular office buildings; and (J) on Department of Veterans Affairs installations used for hospital or domiciliary purposes.

(b) "Building services contract" means a contract for recurring services related to the maintenance of a public building, e.g., janitorial, window washing, food service, laundry, protective services, lawn and grounds care, and inspection, maintenance, and repair of fixed equipment such as elevators, air-conditioning, and heating systems.

Sec. 3. *Exclusions.* This order shall not apply to (a) contracts under the simplified acquisition threshold;

(b) contracts awarded pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. 46–48a; and any future enacted law creating an employment preference for some group of workers under building services contracts;

(c) guard, elevator operator, messenger, or custodial services provided to the Government under contracts with sheltered workshops employing the severely handicapped as outlined in the Edgar Amendment, section 505 of the Treasury, Postal Services and General Government Appropriations Act, 1995, Public Law 103–329;

(d) agreements for vending facilities entered into under the preference provisions of the Randolph-Sheppard Act, 20 U.S.C. 107; or

(e) services where the contractor's employees perform work at the public building and at other locations under contracts not subject to this order (e.g., pest control or trash removal where the contractor's employees visit the site periodically and where the employees under the contract respond to service calls), provided that employees shall not be deployed in a manner that is designed to avoid the purposes of this order.

Sec. 4. *Contract Clause.* The following contract clause shall be included in solicitations and contracts for maintenance of public buildings that succeed contracts for performance of similar work at the same public building:

"NONDISPLACEMENT OF QUALIFIED WORKERS

(a) Consistent with the efficient performance of this contract, the contractor shall, except as otherwise provided herein, in good faith offer those employees (other than managerial and supervisory employees) under the predecessor contract whose employment will be terminated as a result of award of this contract or the expiration of the contract under which the employees were hired, a right of first refusal to employment under the contract in positions for which employees are qualified. The contractor shall determine the number of employees necessary for efficient performance of this contract and may elect to employ fewer employees than the predecessor contractor employed in connection with performance of the work. Except as provided in paragraph (b), there shall be no employment opening under the contract, and the contractor shall not offer employment under the contract, to any person prior to having complied fully with this obligation. The contractor shall make an express offer of employment to each employee as provided herein and shall state the time within which the employee must accept such offer, but in no case shall the period within which the employee must accept the offer of employment be less than 10 days.

(b) Notwithstanding the contractor's obligation under paragraph (a) above, the contractor (1) may employ on the contract any employee who has worked for the contractor for at least 3 months immediately preceding the commencement of this contract and who would otherwise face lay-off or discharge, and (2) is not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees within the meaning of the McNamara-O'Hara Service Contract Act, 41 U.S.C. 357(b), and (3) is not required to offer a right of first refusal to any employee(s) of the predecessor contractor whom the contractor reasonably believes, based

on the particular employee's past performance, has failed to perform suitably on the job.

(c) In accordance with Federal Acquisition Regulation 52.222–41(n), the contractor shall, not less than 60 days before completion of this contract, furnish the Contracting Officer a certified list of the names of all service employees working at the Federal facility during the last month of contract performance. The list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each service employee. The Contracting Officer will provide the list to the successor contractor, and the list shall be provided on request to employees or their representatives.

(d) If it is determined, pursuant to regulations issued by the Secretary of Labor, that the contractor is not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the contractor, as provided in Executive Order No. 12933, the regulations, and relevant orders of the Secretary of Labor, or as otherwise provided by law."

Sec. 5. *Enforcement.* The Secretary of Labor is responsible for investigating and obtaining compliance with this Executive order. In such proceedings the Secretary shall have the authority to issue final orders prescribing appropriate sanctions and remedies, including, but not limited to, orders requiring employment and payment of wages lost. The Secretary also may provide that where a contractor has failed to comply with any order of the Secretary or has committed willful violations of this order or the regulations issued pursuant thereto, the contractor and its responsible officers, and any firm in which the contractor has a substantial interest, shall be ineligible to be awarded any contract or subcontract of the United States for a period of up to 3 years. This Executive order creates no rights under the Contract Disputes Act, and disputes regarding the requirement of the contract clause shall be disposed of only as provided by the Secretary of Labor in regulations issued under this Executive order. To the extent practicable, such regulations shall favor the resolution of disputes by efficient and informal alternative dispute resolution methods. The Secretary of Labor shall, in consultation with the Federal Acquisition Regulatory Council, issue regulations, within 180 days of the date of this order, to implement the requirements of this Executive order. The Federal Acquisition Regulatory Council shall issue, within 180 days of the date of this order, regulations in the Federal Acquisition Regulation to provide for inclusion of the contract clause in Federal solicitations and contracts subject to this Executive order.

Sec. 6. *Judicial Review.* Nothing in this order is intended to provide a constitutional or statutory interpretation of any kind and it is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees. This order is not intended, however, to preclude judicial review of final decisions by the Secretary of Labor in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

William J. Clinton

THE WHITE HOUSE,
October 20, 1994.

[FR Doc. 94–26510
Filed 10–12–94; 12:13 pm]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 59, No. 204

Monday, October 24, 1994

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection announcement line	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, OCTOBER

50153–50480	3
50481–50678	4
50679–50812	5
50813–51080	6
51081–51350	7
51351–51482	11
51483–51838	12
51839–52070	13
52071–52232	14
52233–52398	17
52399–52654	18
52655–52890	19
52891–53032	20
53033–53346	21
53347–53562	24

CFR PARTS AFFECTED DURING OCTOBER

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:

6728	50679
6729	50681
6730	50683
6731	51081
6732	51351
6733	51489
6734	52061
6735	52063
6736	52065
6737	52067
6738	52069
6739	52231
6740	52399
6741	53033
6742	53035
6743	53037
6744	53039
6745	53041
6746	53557

Executive Orders:

July 2, 1910 (Revoked in part by PLO 7092)	50508
12352 (Revoked by EO 12931)	52387
12775 (Continued by Notice of September 30, 1994)	50479
12775 (See DOT final rule of Oct. 6)	51066
12775 (Revoked by EO 12932)	52403
12779 (See DOT final rule of Oct. 6)	51066
12779 (Revoked by EO 12932)	52403
12784 (See EO 12929)	50473
12853 (See DOT final rule of Oct. 6)	51066
12853 (Revoked by EO 12932)	52403
12868 (Revoked by EO 12930)	50475
12872 (See DOT final rule of Oct. 6)	51066
12872 (Revoked by EO 12932)	52403
12914 (See DOT final rule of Oct. 6)	51066
12914 (Revoked by EO 12932)	52403
12917 (See DOT final rule of Oct. 6)	51066
12917 (Revoked by EO 12932)	52403
12920 (See DOT final rule of Oct. 6)	51066
12920 (Revoked by EO 12932)	52403
12922 (See DOT final rule of Oct. 6)	51066
12922 (Revoked by EO 12932)	52403
12953 (See DOT final rule of Oct. 6)	51066
12929	50473
12930	50475
12931	52387
12932	52403
12933	53559

Administrative Orders:

Presidential Determinations:

No. 94–52 of September 29, 1994	50477
No. 94–53 of September 30, 1994	51483
No. 94–54 of September 30, 1994	51485
No. 94–55 of September 30, 1994	51487
No. 94–56 of September 30, 1994	52389
No. 94–57 of September 30, 1994	52057
No. 94–58 of September 30, 1994	52391
No. 94–59 of September 30, 1994	52059
No. 95–1 of October 1, 1994	52393

Memorandums:

September 27, 1994	50685
September 30, 1994	50809
October 7, 1994	52395
October 13, 1994	52397

Notices:

September 30, 1994	50479

5 CFR

213	50813
316	46895
532	52405
846	50687
890	51353
1320	50813
1633	50816
Ch. LXXVI	50816

Proposed Rules:

214	52459
315	52925
317	52459
319	52459

359 52459
531 52467
534 52459
843.....50705
2604.....50171

7 CFR

Ch. I.....51083
Ch. IX.....51083
Ch. X.....51083
Ch. XI.....51083
52.. .....52624, 52630
55.. 52636
56.. 52636
59.....52636
70.....52636
210.....51083, 52588
246.....50818
271.....51353
272.....50153
273.....50173
301 .....51839, 52405, 52891
400.....52407
735.....51355
736.....51355
737.....51355
738.....51355
739.....51355
740.....51355
741.....51355
742.....51355
800.....52071, 52655
906.....50824
920.....53347
928.....52409
945.....50793, 52411
966.....51087
967.....52411
981.....52413
987.....52411
993.....52411
1493.....52866
1755.....53043
1951.....53079

Proposed Rules:

1.....51389
70.....52469
273.....52928
782.....52931
1220.....52475

8 CFR

103.....51091
204.....51358
212.....51091
214.....51101
217.....51091
245.....51091, 53020
274a.....52894

9 CFR

51.....51102, 52233
78.....51102
92.....52235, 52237
94.....52237
75.....50860
102.....50861
113.....51390

10 CFR

34.....50688
35.....50688
50.....50688
73.....50688
110.....50688
600.....53260

Proposed Rules:

2.....50706
21.....53372
50 .....50513, 52255, 52707
52.....52255
61.....52941
100.....52255
150.....50706
430.....50706, 51140

11 CFR

Proposed Rules:

110.....50708
9003.....51006
9004.....51006
9006.....51006
9007.....51006
9033.....51006
9034.....51006
9037.....51006
9038.....51006

12 CFR

230.....52657
303.....52658
304.....50826
338.....52658
614.....50964
701.....52862
1403.....53083
1609.....52669

Proposed Rules:

3.....52100
25.....51232
203.....51323
208.....52100
225.....52100
228.....51232
325.....52714
327.....50710
345.....51232
563e.....51232

13 CFR

121.....50964

14 CFR

11.....52683
25.....52683
27.....50380
29.....50380
39 .....50481, 51103, 51361, 51840, 51841, 51842, 51846, 52414
67.....52894
71 .....51362, 51491, 51851, 51852, 52241, 52242, 52894, 52895
93.....51363
97 .....52243, 52244, 52246, 52417, 52418, 52419
101.....50390
121 .....52640, 52683, 53085
125.....52640, 52683
135.....52640, 52683

Proposed Rules:

Ch. I.....50864
11.....50676
39 .....51151, 51392, 51875, 51877, 51879, 52273, 52479, 52481, 52482, 52483, 52485, 52720
61.....53226
67.....53226
71 .....50865, 51394, 51395
221.....53377
292.....53377
302.....53380
380.....51881
381.....51881
399.....51881

15 CFR

770.....50156
771.....50156
773.....52685
775.....50156
778.....52685
799.....52685
925.....51105
940.....53348

17 CFR

200.....52689
229.....52689
239.....52689
240.....52689
270.....52689
274.....52689

Proposed Rules:

240.....50866, 52723

18 CFR

161.....52896
250.....52896
375.....53349

19 CFR

19.....51492
101.....50689
111.....53086
112.....51492
113.....51492
118.....51492
125.....51492
146.....51492
178.....51492

Proposed Rules:

101.....50717
122.....50717

20 CFR

Proposed Rules:

404.....52380
416.....52380

21 CFR

11.....50793
101.....50828
314.....50338
450.....50484
452.....52077
510.....50828
520.....50829
556.....50829
558.....51497
812.....52078
1308.....52905
1310 .....51364, 51365, 52588
1313.....51365, 52588

Proposed Rules:

101.....51030, 52275
170.....51030
310.....51030
1307.....51887
1309.....51887
1310.....51887
1313.....51887
1316.....51887

22 CFR

40.....51367

24 CFR

200.....50456
203.....50456, 52905
204.....50456
206.....50456
267.....50456
291.....52905
791.....50158
905.....51852
990.....51852

Proposed Rules:

Ch. I.....52104
200.....51519
760.....51519
813.....50870
905.....50870
908.....50870
913.....50870

25 CFR

Proposed Rules:

309.....51908, 52588

26 CFR

1 .....50159, 50161, 50485, 51105, 51369
301.....53087
602.....50161, 51369

Proposed Rules:

1.....52105, 52110
40.....52735
48.....52735

28 CFR

82.....50830
545.....53342
550.....53342

Proposed Rules:

542.....50179

29 CFR

1601.....52704
1910.....51672
1928.....51672
1952.....50793
2610.....52079
2619.....52081
2622.....52079
2644.....52083
2676.....52081

Proposed Rules:

1609.....51396

30 CFR

250.....53091
256.....53091
280.....53091
281.....53091
701.....53022
780.....53022
784.....53022
816.....53022
817.....53022
880.....52374
914.....52906
935.....51498
950.....53094

Proposed Rules:

913.....52487
914.....52941, 52943
916.....51911
935.....53122
944.....53123

31 CFR

103.....52250

205.....51855
550.....51106
Proposed Rules:
103.....52275
247.....53125
334.....50874

32 CFR

706.....52909, 52910, 53097
806.....50834
806b.....53098
Proposed Rules:
323.....51911

33 CFR

100.....51500, 51503
117.....50166, 52423, 53351
151.....51332
155.....53286
156.....53286
165.....50489, 50490, 50491, 50492, 52424, 53353
Proposed Rules:
Ch. I.....52646
117.....50528, 50529, 50530, 50531
165.....52945
166.....50533
167.....50533

34 CFR

396.....52218
685.....52704
Proposed Rules:
682.....51346, 52038

35 CFR

135.....52862

36 CFR

242.....51855
Proposed Rules:
800.....50395

37 CFR

Proposed Rules:
1.....50181

38 CFR

17.....53354

39 CFR

111.....50690
962.....51860
Proposed Rules:
111.....51397

40 CFR

15.....50691
32.....50691
51.....50693
52.....50493, 50495, 50498, 50500, 50502, 50504, 50844, 51108, 51376, 51379, 51381, 51382, 51506, 51514, 51517, 51860, 51863, 52425, 52427, 52429, 52431, 52588, 52704, 52911, 52915, 52916
55.....50845
60.....51383
62.....50506
63.....53109, 53359
81.....50848, 52431
86.....51114
227.....52650
261.....52862
272.....52084, 52918
271.....51115, 51116, 51122
355.....51821
Proposed Rules:
51.....50718
52.....50211, 50533, 50536, 50884, 51153, 51397, 51521, 51912, 52495, 52496, 52743, 52946, 52947, 53128, 53389
62.....50536
63.....51913, 53392, 53395
70.....50214, 50537, 52122, 52123, 52743
81.....52496
82.....52126
85.....53396
131.....52496
141.....51522
142.....51522
180.....53130
258.....51523, 52498
264.....51523
265.....51523
271.....53132
300.....50884, 51933, 52747, 52949
355.....51816
721.....50537

41 CFR

101–17.....50507
101–45.....50696
101–46.....50696
201–20.....53360

42 CFR

403.....51125
488.....52862
489.....52862
1003.....52862
Proposed Rules:
418.....52129

43 CFR

Public Land Orders:
3862 (corrected by PLO 7093).....52921
5023 (removed by PLO 7096).....52922
7091.....50698
7092.....50508
7093.....52921
7094.....52921
7095.....52921
7096.....52922
7097.....53362
Proposed Rules:
11.....52749

44 CFR

64.....53110
65.....52436, 52438
67.....52439
205.....53362
206.....53362
Proposed Rules:
67.....52501

45 CFR

801.....51387
Proposed Rules:
233.....51536
1355.....50646
1356.....50646
1357.....50646, 52951

46 CFR

10.....50964
69.....50508
Proposed Rules:
Ch. I.....50537, 52276
30.....52133
31.....52133
32.....52133
34.....52133
35.....52133
70.....52133
72.....52133
76.....52133
77.....52133
78.....52133
90.....52133
92.....52133
95.....52133
159.....52590
160.....52590
190.....52133
193.....52133
540.....52133

47 CFR

0.....50167
1.....53363
21.....53363
24.....50509, 53364
25.....53294
73.....50168, 50169, 50850, 51130, 51518, 51866, 51867, 51868, 51869, 52086, 52441, 52442, 53363
76.....51869, 52087, 53113, 53363
94.....53294
Proposed Rules:
1.....51538
73.....50719, 50886, 50887, 51153, 51398, 51539, 51540
76.....50538, 51934

48 CFR

209.....51130, 51132
213.....50851
216.....53116
225.....50511, 51132
235.....52442
242.....53116
247.....50851
252.....51130, 51132, 53116
538.....52450
552.....52253, 52450
570.....52253
Proposed Rules:
22.....51399
31.....51399
42.....51399
45.....52277
52.....52277
242.....50539
252.....51130, 51132, 52277
970.....52505
1815.....51154
1819.....51154
1827.....51936
1852.....51154, 51936
1870.....51154

49 CFR

171.....53116
219.....50699
397.....51824
571.....51229
572.....52089
591.....52095
592.....52095
1249.....52099
604.....51133
1002.....52372
1039.....51134
Proposed Rules:
171.....51157
177.....51157
178.....51157
179.....51157
180.....51157
192.....52863
195.....52863
229.....52953
231.....52953
232.....52953
391.....50887
393.....51540
571.....51158
1002.....51546
1160.....51546
1161.....51546
1162.....51546
1163.....51546

50 CFR

17.....50796, 50852
20.....50424, 53334
100.....51855
215.....50372
216.....50372, 52922
285.....51871
301.....51871, 53117
625.....50512
640.....53118
642.....53120
663.....50857, 51871
672.....50169, 50170, 50699, 51134, 51872, 51873, 52099, 52923
675.....50699, 50858, 51387, 51873, 51874, 52452, 53121
676.....51135, 51874
678.....51388, 52453
685.....52924
Proposed Rules:
17.....50540, 50550, 50557, 51404
32.....53338
216.....51552
285.....52277
638.....52136
640.....52136
642.....52136
646.....52136
649.....53410
650.....53410
651.....53133, 53410
654.....52507
659.....52136
675.....50893, 52277
676.....52862
678.....52277

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 6/P.L. 103–382

Improving America's Schools Act of 1994 (Oct. 20, 1994; 108 Stat. 3518; 545 pages)

S. 922/P.L. 103–383

Full Faith and Credit for Child Support Orders Act (Oct. 20, 1994; 108 Stat. 4063; 4 pages)

Last List October 21, 1994

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–022–00001–2)	$5.00	Jan. 1, 1994
3 (1993 Compilation and Parts 100 and 101)	(869–022–00002–1)	33.00	[1] Jan. 1, 1994
4	(869–022–00003–9)	5.50	Jan. 1, 1994
5 Parts:			
1–699	(869–022–00004–7)	22.00	Jan. 1, 1994
700–1199	(869–022–00005–5)	19.00	Jan. 1, 1994
1200–End, 6 (6 Reserved)	(869–022–00006–3)	23.00	Jan. 1, 1994
7 Parts:			
0–26	(869–022–00007–1)	21.00	Jan. 1, 1994
27–45	(869–022–00008–0)	14.00	Jan. 1, 1994
46–51	(869–022–00009–8)	20.00	[6] Jan. 1, 1993
52	(869–022–00010–1)	30.00	Jan. 1, 1994
53–209	(869–022–00011–0)	23.00	Jan. 1, 1994
210–299	(869–022–00012–8)	32.00	Jan. 1, 1994
300–399	(869–022–00013–6)	16.00	Jan. 1, 1994
400–699	(869–022–00014–4)	18.00	Jan. 1, 1994
700–899	(869–022–00015–2)	22.00	Jan. 1, 1994
900–999	(869–022–00016–1)	34.00	Jan. 1, 1994
1000–1059	(869–022–00017–9)	23.00	Jan. 1, 1994
1060–1119	(869–022–00018–7)	15.00	Jan. 1, 1994
1120–1199	(869–022–00019–5	12.00	Jan. 1, 1994
1200–1499	(869–022–00020–9)	30.00	Jan. 1, 1994
1500–1899	(869–022–00021–7)	30.00	Jan. 1, 1994
1900–1939	(869–022–00022–5)	15.00	Jan. 1, 1994
1940–1949	(869–022–00023–3)	30.00	Jan. 1, 1994
1950–1999	(869–022–00024–1)	35.00	Jan. 1, 1994
2000–End	(869–022–00025–0)	14.00	Jan. 1, 1994
8	(869–022–00026–8)	22.00	Jan. 1, 1994
9 Parts:			
1–199	(869–022–00027–6)	29.00	Jan. 1, 1994
200–End	(869–022–00028–4)	23.00	Jan. 1, 1994
10 Parts:			
0–50	(869–022–00029–2)	29.00	Jan. 1, 1994
51–199	(869–022–00030–6)	22.00	Jan. 1, 1994
200–399	(869–022–00031–4)	15.00	[6] Jan. 1, 1993
400–499	(869–022–00032–2)	21.00	Jan. 1, 1994
500–End	(869–022–00033–1)	37.00	Jan. 1, 1994
11	(869–022–00034–9)	14.00	Jan. 1, 1994
12 Parts:			
1–199	(869–022–00035–7)	12.00	Jan. 1, 1994
200–219	(869–022–00036–5)	16.00	Jan. 1, 1994
220–299	(869–022–00037–3)	28.00	Jan. 1, 1994
300–499	(869–022–00038–1)	22.00	Jan. 1, 1994
500–599	(869–022–00039–0)	20.00	Jan. 1, 1994
600–End	(869–022–00040–3)	32.00	Jan. 1, 1994
13	(869–022–00041–1)	30.00	Jan. 1, 1994
14 Parts:			
1–59	(869–022–00042–0)	32.00	Jan. 1, 1994
60–139	(869–022–00043–8)	26.00	Jan. 1, 1994
140–199	(869–022–00044–6)	13.00	Jan. 1, 1994
200–1199	(869–022–00045–4)	23.00	Jan. 1, 1994
1200–End	(869–022–00046–2)	16.00	Jan. 1, 1994
15 Parts:			
0–299	(869–022–00047–1)	15.00	Jan. 1, 1994
300–799	(869–022–00048–9)	26.00	Jan. 1, 1994
800–End	(869–022–00049–7)	23.00	Jan. 1, 1994
16 Parts:			
0–149	(869–022–00050–1)	6.50	Jan. 1, 1994
150–999	(869–022–00051–9)	18.00	Jan. 1, 1994
1000–End	(869–022–00052–7)	25.00	Jan. 1, 1994
17 Parts:			
1–199	(869–022–00054–3)	20.00	Apr. 1, 1994
200–239	(869–022–00055–1)	23.00	Apr. 1, 1994
240–End	(869–022–00056–0)	30.00	Apr. 1, 1994
18 Parts:			
1–149	(869–022–00057–8)	16.00	Apr. 1, 1994
150–279	(869–022–00058–6)	19.00	Apr. 1, 1994
280–399	(869–022–00059–4)	13.00	Apr. 1, 1994
400–End	(869–022–00060–8)	11.00	Apr. 1, 1994
19 Parts:			
1–199	(869–022–00061–6)	39.00	Apr. 1, 1994
200–End	(869–022–00062–4)	12.00	Apr. 1, 1994
20 Parts:			
1–399	(869–022–00063–2)	20.00	Apr. 1, 1994
400–499	(869–022–00064–1)	34.00	Apr. 1, 1994
500–End	(869–022–00065–9)	31.00	Apr. 1, 1994
21 Parts:			
1–99	(869–022–00066–7)	16.00	Apr. 1, 1994
100–169	(869–022–00067–5)	21.00	Apr. 1, 1994
170–199	(869–022–00068–3)	21.00	Apr. 1, 1994
200–299	(869–022–00069–1)	7.00	Apr. 1, 1994
300–499	(869–022–00070–5)	36.00	Apr. 1, 1994
500–599	(869–022–00071–3)	16.00	Apr. 1, 1994
600–799	(869–022–00072–1)	8.50	Apr. 1, 1994
800–1299	(869–022–00073–0)	22.00	Apr. 1, 1994
1300–End	(869–022–00074–8)	13.00	Apr. 1, 1994
22 Parts:			
1–299	(869–022–00075–6)	32.00	Apr. 1, 1994
300–End	(869–022–00076–4)	23.00	Apr. 1, 1994
23	(869–019–00077–1)	21.00	Apr. 1, 1993
24 Parts:			
0–199	(869–022–00078–1)	36.00	Apr. 1, 1994
200–499	(869–022–00079–9)	38.00	Apr. 1, 1994
500–699	(869–022–00080–2)	20.00	Apr. 1, 1994
700–1699	(869–022–00081–1)	39.00	Apr. 1, 1994
1700–End	(869–022–00082–9)	17.00	Apr. 1, 1994
25	(869–022–00083–7)	32.00	Apr. 1, 1994
26 Parts:			
§§ 1.0-1–1.60	(869–022–00084–5)	20.00	Apr. 1, 1994
§§ 1.61–1.169	(869–022–00085–3)	33.00	Apr. 1, 1994
§§ 1.170–1.300	(869–022–00086–1)	24.00	Apr. 1, 1994
§§ 1.301–1.400	(869–022–00087–0)	17.00	Apr. 1, 1994
§§ 1.401–1.440	(869–022–00088–8)	30.00	Apr. 1, 1994
§§ 1.441–1.500	(869-022-00089-6)	22.00	Apr. 1, 1994
§§ 1.501–1.640	(869–022–00090–0)	21.00	Apr. 1, 1994
§§ 1.641–1.850	(869–022–00091–8)	24.00	Apr. 1, 1994
§§ 1.851–1.907	(869–022–00092–6)	26.00	Apr. 1, 1994
§§ 1.908–1.1000	(869–022–00093–4)	27.00	Apr. 1, 1994
§§ 1.1001–1.1400	(869–022–00094–2)	24.00	Apr. 1, 1994
§§ 1.1401–End	(869–022–00095–1)	32.00	Apr. 1, 1994
2–29	(869–022–00096–9)	24.00	Apr. 1, 1994
30–39	(869–022–00097–7)	18.00	Apr. 1, 1994
40–49	(869–022–00098–4)	14.00	Apr. 1, 1994
50–299	(869–022–00099–3)	14.00	Apr. 1, 1994
300–499	(869–022–00100–1)	24.00	Apr. 1, 1994
500–599	(869–022–00101–9)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600-End	(869-022-00102-7)	8.00	Apr. 1, 1994
27 Parts:			
1-199	(869-022-00103-5)	36.00	Apr. 1, 1994
200-End	(869-022-00104-3)	13.00	Apr. 1, 1994
28 Parts:			
1-42	(869-019-00105-1)	27.00	July 1, 1993
43-end	(869-019-00106-9)	21.00	July 1, 1993
29 Parts:			
0-99	(869-022-00107-8)	21.00	July 1, 1994
100-499	(869-019-00108-5)	9.50	July 1, 1993
500-899	(869-019-00109-3)	36.00	July 1, 1993
900-1899	(869-019-00110-7)	17.00	July 1, 1993
1900-1910 (§§ 1901.1 to 1910.999)	(869-019-00111-5)	31.00	July 1, 1993
1910 (§§ 1910.1000 to end)	(869-019-00112-3)	21.00	July 1, 1993
1911-1925	(869-019-00113-1)	22.00	July 1, 1993
1926	(869-022-00114-1)	33.00	July 1, 1994
1927-End	(869-019-00115-8)	36.00	July 1, 1993
30 Parts:			
1-199	(869-019-00116-6)	27.00	July 1, 1993
200-699	(869-019-00117-4)	20.00	July 1, 1993
700-End	(869-019-00118-2)	27.00	July 1, 1993
31 Parts:			
0-199	(869-022-00119-1)	18.00	July 1, 1994
200-End	(869-019-00120-4)	29.00	July 1, 1993
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-019-00121-2)	30.00	July 1, 1993
191-399	(869-019-00122-1)	36.00	July 1, 1993
400-629	(869-022-00123-0)	26.00	July 1, 1994
630-699	(869-022-00124-8)	14.00	[5] July 1, 1991
700-799	(869-022-00125-6)	21.00	July 1, 1994
800-End	(869-022-00126-4)	22.00	July 1, 1994
33 Parts:			
1-124	(869-019-00127-1)	20.00	July 1, 1993
125-199	(869-019-00128-0)	25.00	July 1, 1993
200-End	(869-022-00129-9)	24.00	July 1, 1994
34 Parts:			
1-299	(869-019-00130-1)	27.00	July 1, 1993
300-399	(869-019-00131-0)	20.00	July 1, 1993
400-End	(869-019-00132-8)	37.00	July 1, 1993
35	(869-019-00133-6)	12.00	July 1, 1993
36 Parts:			
1-199	(869-022-00134-5)	15.00	July 1, 1994
200-End	(869-019-00135-2)	35.00	July 1, 1993
37	(869-019-00136-1)	20.00	July 1, 1993
38 Parts:			
0-17	(869-019-00137-9)	31.00	July 1, 1993
18-End	(869-019-00138-7)	30.00	July 1, 1993
39	(869-022-00139-6)	16.00	July 1, 1994
40 Parts:			
1-51	(869-019-00140-9)	39.00	July 1, 1993
52	(869-019-00141-7)	37.00	July 1, 1993
*53-59	(869-022-00142-6)	11.00	July 1, 1994
60	(869-019-00143-3)	35.00	July 1, 1993
61-80	(869-019-00144-1)	29.00	July 1, 1993
81-85	(869-019-00145-0)	21.00	July 1, 1993
86-99	(869-019-00146-8)	39.00	July 1, 1993
100-149	(869-019-00147-6)	36.00	July 1, 1993
150-189	(869-019-00148-4)	24.00	July 1, 1993
190-259	(869-019-00149-2)	17.00	July 1, 1993
260-299	(869-019-00150-6)	39.00	July 1, 1993
300-399	(869-022-00151-5)	18.00	July 1, 1994
400-424	(869-019-00152-2)	27.00	July 1, 1993
425-699	(869-019-00153-1)	28.00	July 1, 1993
700-789	(869-019-00154-9)	26.00	July 1, 1993
790-End	(869-019-00155-7)	26.00	July 1, 1993
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-019-00156-5)	10.00	July 1, 1993
101	(869-019-00157-3)	30.00	July 1, 1993
102-200	(869-022-00158-2)	15.00	July 1, 1994
201-End	(869-019-00159-0)	12.00	July 1, 1993
42 Parts:			
1-399	(869-019-00160-3)	24.00	Oct. 1, 1993
400-429	(869-019-00161-1)	25.00	Oct. 1, 1993
430-End	(869-019-00162-0)	36.00	Oct. 1, 1993
43 Parts:			
1-999	(869-019-00163-8)	23.00	Oct. 1, 1993
1000-3999	(869-019-00164-6)	32.00	Oct. 1, 1993
4000-End	(869-019-00165-4)	14.00	Oct. 1, 1993
44	(869-019-00166-2)	27.00	Oct. 1, 1993
45 Parts:			
1-199	(869-019-00167-1)	22.00	Oct. 1, 1993
200-499	(869-019-00168-9)	15.00	Oct. 1, 1993
500-1199	(869-019-00169-7)	30.00	Oct. 1, 1993
1200-End	(869-019-00170-1)	22.00	Oct. 1, 1993
46 Parts:			
1-40	(869-019-00171-9)	18.00	Oct. 1, 1993
41-69	(869-019-00172-7)	16.00	Oct. 1, 1993
70-89	(869-019-00173-5)	8.50	Oct. 1, 1993
90-139	(869-019-00174-3)	15.00	Oct. 1, 1993
140-155	(869-019-00175-1)	12.00	Oct. 1, 1993
156-165	(869-019-00176-0)	17.00	Oct. 1, 1993
166-199	(869-019-00177-8)	17.00	Oct. 1, 1993
200-499	(869-019-00178-6)	20.00	Oct. 1, 1993
500-End	(869-019-00179-4)	15.00	Oct. 1, 1993
47 Parts:			
0-19	(869-019-00180-8)	24.00	Oct. 1, 1993
20-39	(869-019-00181-6)	24.00	Oct. 1, 1993
40-69	(869-019-00182-4)	14.00	Oct. 1, 1993
70-79	(869-019-00183-2)	23.00	Oct. 1, 1993
80-End	(869-019-00184-1)	26.00	Oct. 1, 1993
48 Chapters:			
1 (Parts 1-51)	(869-019-00185-9)	36.00	Oct. 1, 1993
1 (Parts 52-99)	(869-019-00186-7)	23.00	Oct. 1, 1993
2 (Parts 201-251)	(869-019-00187-5)	16.00	Oct. 1, 1993
2 (Parts 252-299)	(869-019-00188-3)	12.00	Oct. 1, 1993
3-6	(869-019-00189-1)	23.00	Oct. 1, 1993
7-14	(869-019-00190-5)	31.00	Oct. 1, 1993
15-28	(869-019-00191-3)	31.00	Oct. 1, 1993
29-End	(869-019-00192-1)	17.00	Oct. 1, 1993
49 Parts:			
1-99	(869-019-00193-0)	23.00	Oct. 1, 1993
100-177	(869-019-00194-8)	30.00	Oct. 1, 1993
178-199	(869-019-00195-6)	20.00	Oct. 1, 1993
200-399	(869-019-00196-4)	27.00	Oct. 1, 1993
400-999	(869-019-00197-2)	33.00	Oct. 1, 1993
1000-1199	(869-019-00198-1)	18.00	Oct. 1, 1993
1200-End	(869-019-00199-9)	22.00	Oct. 1, 1993
50 Parts:			
1-199	(869-019-00200-6)	20.00	Oct. 1, 1993
200-599	(869-019-00201-4)	21.00	Oct. 1, 1993
600-End	(869-019-00202-2)	22.00	Oct. 1, 1993
CFR Index and Findings Aids	(869-022-00053-5)	38.00	Jan. 1, 1994

Title	Stock Number	Price	Revision Date
Complete 1994 CFR set		829.00	1994
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Subscription (mailed as issued)		244.00	1994
Individual copies		2.00	1994

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1994. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1994. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued January 1, 1993, should be retained.

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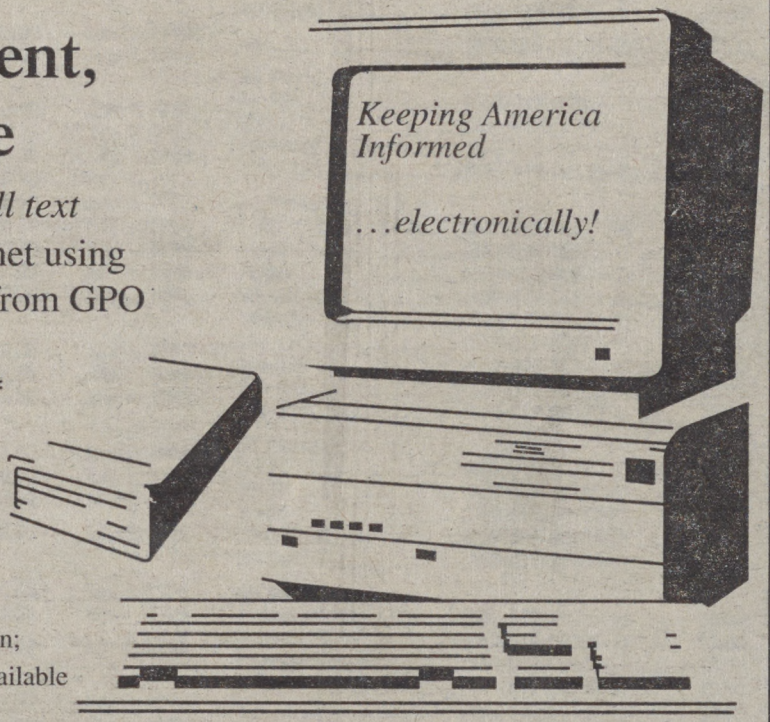

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8/94

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